

WITNESSESNAMEDIRECTCROSS

ANTONINO MAZZAMUTO

BY: MR. WOLGEMUTH

3

--

1 STIPULATION

2 It is hereby stipulated by and between counsel for
3 the respective parties that reading, signing, sealing,
4 certification and filing are hereby waived; and that all
5 objections except as to the form of the question are reserved
6 until the time of trial.

7 ANTONINO MAZZAMUTO, called as a witness, being duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WOLGEMUTH:

11 Q Mr. Mazzamuto, my name is Kirk Wolgemuth. I
12 represent the Defendants in this case. Have you ever been
13 deposed before?

14 A No.

15 Q I just want to go over a couple of ground rules.
16 I'll be asking you some questions, and after I'm done asking
17 you a question, you need to answer and you need to answer
18 verbally so the court reporter can get your answer.

19 A Okay.

20 Q If you don't understand any of my questions, you can
21 ask me to repeat the question or you can ask Mr. Angino for a
22 clarification if necessary.

23 A Okay.

24 Q Why don't you state your full name and present
25 address.

1 A My name is Antonino Mazzamuto and my address is 501
2 Limestone Road in Carlisle, Pennsylvania.

3 Q How long have you lived there?

4 A At that address probably I guess since I was 13.

5 Q Do you presently live with anybody?

6 A My parents.

7 Q And that's Mr. Mazzamuto, the Plaintiff in this case?

8 A Yeah.

9 Q And how long have you lived with your parents?

10 A My whole life.

11 Q How old are you?

12 A Twenty-four. I'll be twenty-five in September.

13 Q Just briefly, what's your educational background?

14 A I have a bachelors in science and chemistry from
15 Shippensburg University.

16 Q And when did you get that?

17 A I just graduated this past December.

18 Q Of '02?

19 A Yeah.

20 Q When you were going to school, would that have been
21 from '98 to '02?

22 A Ninety-seven.

23 Q Did you live at Shippensburg?

24 A Well, first I went to West Chester.

25 Q Okay.

1 A It was down outside of Philadelphia.

2 Q How many years did you attend West Chester?

3 A I went there for three years.

4 Q Did you live on campus?

5 A Yeah.

6 Q And did you return home during the summertime when
7 you were going to West Chester?

8 A The first summer I did.

9 Q Okay. And what did you do the next two summers?

10 A I was down there for part of the summer to take a
11 class and then the summer after that I took two classes so I
12 was down there for most of the summer.

13 Q Were you working over the summertime at all down in
14 West Chester?

15 A Yeah, I had a job at a country club.

16 Q So then you were three years at West Chester and then
17 one year at Ship or two years at Ship or one and a half?

18 A I'd say a year and a half. I took a semester off.

19 Q What years would that have been, 2000 to December of
20 '02?

21 A Yeah, it was the spring of 2000 I believe so just
22 this past fall.

23 Q Did you go to school full time when you were going to
24 Shippensburg?

25 A Yeah, I was taking like the minimum amount of credits

1 for full-time. It was like 12 credits.

2 Q And did you live in Shippensburg?

3 A No.

4 Q You lived --

5 A At home.

6 Q -- at home. So it would have been the -- just make
7 sure I understand. The spring of 2000 until December of '02
8 you were going to Shippensburg and lived at home.

9 A Yeah.

10 Q What have you been doing since the spring of 2000 --
11 or sometime since December of '92?

12 A Working at the pizza shop.

13 Q Now, during the time period say January of 2000 to
14 December of 2002, how often would you see your father?

15 A Every day. I mean, he was at home.

16 Q Okay. Did you see him like in the morning and then
17 did you come home the late afternoon or evening?

18 A I think most of the semester I had early classes so I
19 wouldn't see him in the morning but I would see him when I came
20 home.

21 Q What time did you come home?

22 A My first semester there I'd say I didn't come home
23 like until like around three or four, but then I was taking one
24 of my hardest classes for the first fall there and usually I
25 didn't come home until seven, eight at night.

1 Q Now, Mr. Mazzamuto your father testified in a
2 deposition about some of the job duties that he had performed
3 while working at the restaurant that your family owns, and I
4 just want to go over a couple of those job duties and see if
5 you agree with what he said. Okay.

6 MR. ANGINO: And let's just for the record so there's
7 no confusion, the claim is for July of 2000 I think so you're
8 talking about before July of 2000.

9 MR. WOLGEMUTH: Correct, correct.

10 MR. ANGINO: Okay.

11 BY MR. WOLGEMUTH:

12 Q Mr. Mazzamuto your father testified that his job
13 duties included, you know, the ordering supplies. Do you agree
14 with that?

15 A Yeah, yes.

16 Q Paying bills?

17 A Yes.

18 Q Occasionally once a month or once every two months he
19 would fill in for a cook if the cook didn't show up?

20 A Well, usually happen more often than one or two but
21 that sounds about right.

22 MR. ANGINO: What I'm going to do is object to the
23 form of the question because we're dealing with usual
24 stipulations and the only objection is to the form of the
25 question is you are asking him questions as to a particular

1 statement, and what I'm suggesting to you is he's testified
2 that he did a lot more than what's in that statement so just so
3 the witness isn't misled that this, you know, is the entire
4 testimony of your dad's.

5 MR. WOLGEMUTH: Okay. Well, actually I'm talking
6 about his testimony that my colleague Mr. Henefer had obtained
7 from him during his deposition.

8 MR. ANGINO: What I'm saying though is his deposition
9 is fairly extensive as far as all the things he's done and
10 there was a video taken actually of what he did plus you have a
11 statement that he said he stood most of the time. I mean, you
12 know, I just don't want him to think that what you are saying
13 is all inclusive in terms of, you know, the question and that's
14 why I've objected to the form of the question.

15 MR. WOLGEMUTH: Well, again, I think, you know, his
16 deposition stands for itself.

17 MR. ANGINO: Right, but we don't want to use
18 selective things to mislead the witness. It's a question
19 that's misleading. That's the objection.

20 BY MR. WOLGEMUTH:

21 Q Mr. Mazzamuto also testified under oath that he would
22 greet customers as they came in. Do you agree with that?

23 A Yeah.

24 Q He would also operate the cash register.

25 A Yes.

1 Q Occasionally if he had to he would, you know, greet
2 and actually seat the customers?

3 A For the most part, since it's a family business, a
4 lot of people know us personally, so, you know, being one on
5 one with the customers, you know, helps and keeps repeat
6 business, so, yeah, he would, you know, bring people to their
7 seats sometimes, and, you know.

8 Q Okay. Occasionally he would have to take orders from
9 the customers?

10 A Yeah. If everyone else is, you know, busy doing
11 something else, somebody has to take the orders so

12 Q And during the time prior to July of 2000, were you
13 working at the restaurant with your father?

14 A That was the summer I was taking -- I believe that
15 was the summer I was taking two classes.

16 Q And that would have been at --

17 A West Chester.

18 Q West Chester.

19 A Yeah.

20 Q So you weren't observing his work duties in the
21 summer of 2000?

22 A No.

23 Q When would have been the time that prior to the
24 summer of 2000 that you were actually working at the restaurant
25 observing his work duties?

1 A Well, I went to school full-time at West Chester so I
2 wasn't at home during the week, but I would be home I'd say at
3 least one weekend a month, and every time I went home he was
4 working and sometimes I would get coaxed into working too.
5 That's why I tried not to go home too often.

6 Q I understand that. So are we saying that from the
7 time period 1997 to December of 2002, the only time you
8 observed your father working is if you got coaxed into working
9 on a weekend?

10 A Which was pretty much every weekend I went home, but,
11 yeah.

12 Q I might have already covered this but your father
13 also testified that he ordered supplies.

14 A Yeah.

15 Q And the area that he would order the supplies and
16 paid bills, that was in the like the office portion of the
17 restaurant where it has a window where you can see out of?

18 A Yeah, but sometimes he would call -- I mean, there's
19 other restaurant lines so he -- sometimes he would call the
20 restaurant line, our suppliers so he pretty much take the call
21 even while he was like doing something at like the pizza table
22 or if he was at the sub table because the phone is right --
23 kind of like right behind you but he would still have to stop
24 and go get like the list of what we had to buy so

25 Q Okay. Now, would you say that from the time period

1 that you observed your father's work duties from 1997 to 2000
2 -- I'm sorry, to July of 2000, that three year period, were
3 your father's work duties pretty consistent?

4 A Yeah, I mean, nothing ever really changes. I mean,
5 you either -- sometimes you work harder because you have one
6 less employee, sometimes you work a little less because you
7 have one more employee, but sometimes it's kind of hard to keep
8 the employees in a family business there. It's not like a big
9 paying job.

10 Q And from that time period from 1997 to 2000, how many
11 family members were working at your business?

12 A Well, my first year of college I would say that my
13 three brothers, my mom and my dad.

14 Q What are your three brother's names?

15 A Angelo, Frankie and Luigi.

16 Q And what are their ages?

17 A Luigi 15 presently, Frankie is 20 and Angelo is 23,
18 yeah, 23.

19 Q And do they all presently live at home?

20 A My brother Angelo does right now, but he's moving to
21 California, and Luigi is still in high school, so, yes, and
22 Frankie yes.

23 Q And have they -- were they living at home during that
24 time period '97 to July of '00?

25 A Yeah, my brother went to -- my brother Angelo went to

1 IUP after my first year at college because he graduated then,
2 and then Frankie went to school for maybe like two and a half
3 months and he decided college wasn't his thing.

4 Q Okay. And IUP being the Indiana University of
5 Pennsylvania?

6 A Yeah.

7 Q What were the years that Angelo went there?

8 A I guess the fall of '98 until he just graduated this
9 spring so '03.

10 Q And did he also live on campus?

11 A Yeah.

12 Q Or at the University?

13 A Yeah, yeah, at the university.

14 Q Did Angelo return home over the summers when he was
15 going to school?

16 A Yeah, I think he was home every summer. I think one
17 summer he did take one class but as far as I can remember.

18 Q Would he work at the family business in the summers
19 that he took or the summers while he was going to school?

20 A Yeah.

21 Q And what were his responsibilities there?

22 A Well, don't tell him I told you this but he's lazy
23 but he made subs. He made subs, took people's -- took phone
24 orders, people coming in and served tables. He would help with
25 some prep work. That's about it.

1 Q And, you know, I didn't even ask you what your job
2 duties were during the time period that you'd work like on
3 weekends during that time period.

4 A Well, since I can remember and the three years that I
5 came home, you know, every once in a while, I pretty much made
6 all the pizzas, did a lot of prep work, took orders. I mean,
7 you name it, I did it. I mean, I didn't really do as much
8 cooking in the kitchen area, but other than that I was pretty
9 much everywhere.

10 Q How about Frankie, was he working at the family
11 business during the time period '97 to July 2000?

12 A Yeah.

13 Q Was he working full-time there except for the months
14 that he went to school or was he still in high school?

15 A Well, he was still in high school.

16 Q He would have been in high school until what, '01?

17 A I think he graduated 2000.

18 Q 2000?

19 A I believe.

20 Q And then did he go to the two and a half months of
21 college right after he graduated?

22 A Yeah, that fall.

23 Q That fall. And other than the two and a half months
24 that he was in college, had he been working at the family
25 business all other times?

1 A Yeah, yeah, because we'd be there every weekend
2 Friday as soon as we got off of school and then Sunday until,
3 you know, good part of the day, and, you know, if they needed
4 us during the week, we would always be there Thursday too.

5 Q Again, that's the time prior to you going to school
6 during the week?

7 A Yeah, well, even after I left for school like, I
8 mean, they still had to do the same thing, my brothers did.

9 Q The time period that you had worked again on weekends
10 from '97 to July of '02, you were working weekends at the
11 restaurant?

12 A Yes, pretty much weekends.

13 Q How long was your dad working during that time
14 period, how many hours?

15 A During the weekend?

16 Q Yes.

17 A I'm assuming he was there right in the morning, you
18 know, because I would drive home but I probably wouldn't get
19 there until like six at night but

20 Q On Fridays you mean?

21 A Yeah, on Fridays.

22 Q Okay.

23 A And he would be there until closing which back then I
24 believe was still 12:00 on Friday and Saturday, and he would be
25 there pretty much all day Saturday and all day Sunday. I mean,

1 since I was home sometimes he would, you know, take a couple
2 hours off in the morning I think, but, so like a lot of -- so
3 much prep work to do that you would have to stay on top of it
4 because it was always running out.

5 Q And would your mother be working those same hours
6 during the weekends or would she have time off?

7 A My dad would usually give my mom a little more time
8 off, you know, because, you know, four boys especially me
9 coming home from college, a lot of clothes to wash. She would
10 stay home and wash my clothes and clean the house a little bit
11 so

12 Q Okay. And would she be working there during the week
13 then?

14 A Yeah, she was there every morning and then sometimes
15 at night. You know, a girl would call in sick and then she
16 would have to be there at night too.

17 Q And what were your mom's duties just generally during
18 that time period '97 to July of '02?

19 A Make food, take care of customers, wash dishes, do a
20 lot of prep work, help out with like even like little things
21 like making boxes, or, you know.

22 MR. ANGINO: Just so there's no confusion, you're
23 using '02. Obviously Mr. Mazzamuto would not be working until
24 '02.

25 MR. WOLGEMUTH: Yes, if I said that I really meant

1 the time period '97 to July of --

2 MR. ANGINO: 2000.

3 MR. WOLGEMUTH: Right, if I said that, I --

4 MR. ANGINO: You don't want the record kind of
5 confused like he's working every weekend until '02, you know.

6 MR. WOLGEMUTH: That's fine.

7 BY MR. WOLGEMUTH:

8 Q Actually that's a good question. In July of 2000
9 your father had a heart attack.

10 A Right.

11 Q Did you observe him working at any time from July of
12 '02 to July of '01?

13 MR. ANGINO: You said it again. July of '00.

14 BY MR. WOLGEMUTH:

15 Q From July of '00 until July of '01, had you observed
16 your father working at any time during that time period when
17 you were home on the weekends?

18 A No, well, I dropped out of school to -- well, I was
19 coming home every weekend to work because my dad couldn't work
20 at all.

21 Q Because of the heart attack?

22 A Right.

23 Q Okay.

24 A And I came home every weekend, and after like maybe
25 like, you know, four or five weekends of that, it was

1 stressful. I was taking some of my hardest classes so I just
2 decided to take a semester off and I came home and I worked
3 pretty much seven days a week.

4 Q And that would have been until the end of 2000?

5 A Yeah, so that pretty much that December, and then
6 that's when my brother Frankie decided he didn't want to go to
7 school anymore so he was home to help me out so I could go back
8 to school.

9 Q So you returned to school in the spring of 2001?

10 A I believe it was 2001.

11 Q Now, again, during that time period, obviously your
12 father had to recuperate from the heart attack, but did he
13 return to work in any capacity say fall of 2000 until the
14 spring of 2001 when you returned to school?

15 A No, like especially since I was home, I was in there
16 every day and my mom was pretty much in there every day too.
17 My dad was at home because he just didn't want to stress
18 himself out or -- and then, I mean, that and besides, you know,
19 he had other, you know, problems too.

20 Q So he would not have worked at all during that time
21 period?

22 A No.

23 Q Did you ever observe him at the restaurant during
24 that time period? Would he come in at all?

25 A Well, on the weekends we would always be working so

1 we would never see him so he would come in and sit down at a
2 table and we'd all eat like lunch together and then he'd leave.

3 Q Was he doing any of the bookwork during that time
4 period fall of '00 to spring of '01?

5 A No.

6 Q Somebody else assumed those responsibilities?

7 A Yeah, my mom pretty much took care of like paying the
8 bills and writing out checks to the employees, and, I mean,
9 making like business calls.

10 Q Now, when you returned -- I'm sorry, you were living
11 at home after you started going to Shippensburg.

12 A Yeah.

13 Q And that was in the spring of 2000 or 2001.

14 A Yeah, it's kind of hard to remember. I think it
15 was --

16 MR. ANGINO: 2001 I think he said.

17 THE WITNESS: Yeah.

18 BY MR. WOLGEMUTH:

19 Q Can you tell me whether you observed your father --
20 well, I guess you observed your father every day during that
21 time because you were living at home.

22 A Yeah.

23 Q Can you just tell me what kind of activities you saw
24 him involved in during that time period.

25 A You know, sit and watch TV a lot. Every once in a

1 while he would try to do some like fold clothes or wash some
2 clothes for my mom, maybe do some ironing for my mom, but he
3 couldn't do that too long because after a while his legs
4 started to hurt and his back starts to hurt so he has to sit
5 down. It would pretty much be an all day affair to do a few
6 loads of laundry.

7 Q Did he have any recreational type of activities that
8 he was involved in?

9 A It would be, you know, doing stuff on the computer
10 like stock market, but, you know, stock market not doing too
11 well so probably best if he didn't sit in front of the
12 computer.

13 Q You would observe him sitting in front of the
14 computer?

15 A Time to time. I was at work so, you know, or at
16 school.

17 Q Again, I'm just talking about the time period spring
18 of '01 to December of '02.

19 A Right.

20 Q That time period you lived at home.

21 A Right. I mean, at first he wasn't on the computer
22 like right after the heart attack but probably a little later
23 when he was feeling better just checking to see how, you know,
24 stocks are doing.

25 MR. ANGINO: Just for the record as to the form of

1 the question. He said he was working seven days a week all day
2 so he wouldn't have much time at home to be seeing him.

3 MR. WOLGEMUTH: No, I'm talking about the time period
4 the spring of '01 to December of '02 while he was attending
5 Shippensburg.

6 MR. ANGINO: Oh, I got you. I'm sorry.

7 THE WITNESS: Yeah, I would pretty much be at class
8 during the day and I would have like -- like mostly if I had
9 work to do I would try to do it on campus between classes and
10 then I'd come home and like I might have like one night off a
11 week to, you know, pretty much to myself, but on weekends I'd
12 kind of have to push everything to Sunday night. There would
13 be a few times I would be up to like three or four in the
14 morning just doing homework.

15 BY MR. WOLGEMUTH:

16 Q Were you working at the restaurant -- I'm sorry. I
17 already asked you that during that time period.

18 A Yeah, yeah, yeah. It was a little easier when my
19 brother Frankie quit to do all of that, but still it takes a
20 lot of work to run a business.

21 Q Now, you said that you saw your father playing on the
22 computer in the stock market. Did he surf the Net, those kind
23 of things?

24 A My dad, he's not as educated, you know, in that kind
25 of stuff so pretty much everything he knows how to do is only

1 because my brother Angelo would have to exactly show him many
2 many times how to do something so

3 Q You never trained your dad on the computer?

4 A I am also a little computer illiterate. I only know
5 how to use like chemistry programs, but, yeah, I was never much
6 into computers so -- but plus, you know, I have a little bit of
7 problem trying to teach my dad stuff sometimes because he gets
8 frustrated with me if I can't explain something right.

9 Q So your father would have done most of the computer
10 training by himself?

11 A Yeah, but he would do most of it when my brother
12 Angelo is home. My brother Angelo is more -- he was a computer
13 science major for maybe like a semester so he was like really
14 big into computers and stuff so whatever is like a technical
15 question or stock question, my brother is more interested in it
16 so he would work with my dad more on it. He wasn't like on the
17 computer every day.

18 Q You're talking about your father?

19 A Yeah.

20 Q Now, your dad had testified that he would follow CNN
21 and follow and use that to buy and sell stocks?

22 A Yep.

23 Q And he did all his trading on the computer to your
24 knowledge?

25 A After my brother said something about online trading,

1 but it wasn't at first because my dad used to, you know, like
2 call his stockbroker and stuff.

3 Q Okay.

4 A It took a while, then I guess my dad's stockbroker
5 told him you can do stuff on the Internet and blah blah blah so
6 my brother -- and my dad of course drilled my brother Angelo
7 about show me how to do this, show me how to do that.

8 MR. ANGINO: Show me how to lose my money.

9 THE WITNESS: Right.

10 BY MR. WOLGEMUTH:

11 Q Now, Angelo, let me just figure out here. He's 23,
12 and when your dad had the heart attack, that's when he quit
13 school and came home, that fall.

14 A I quit school.

15 Q You quit school.

16 A Yeah.

17 Q So he was in --

18 A He was still at IUP. He was going into his third
19 year because I would have been going into my fourth year I
20 believe.

21 Q Okay. So from July of 2000 when was it that he
22 returned home?

23 A What do you mean?

24 Q When did your brother Angelo return home after your
25 dad had the heart attack?

1 A After he graduated. You're talking about Frankie.

2 MR. ANGINO: Frankie, Frankie quit after three and a
3 half months.

4 THE WITNESS: Yeah, two and a half months.

5 MR. WOLGEMUTH: Okay. So Angelo was in school --

6 MR. ANGINO: Up until last year.

7 THE WITNESS: He just graduated this spring.

8 MR. ANGINO: This year.

9 BY MR. WOLGEMUTH:

10 Q So from the time period July of 2000, Angelo was in
11 college that whole time until this spring.

12 A Yeah, he was home for -- the summer my dad had the
13 heart attack, my brother Angelo was home. So he was working
14 all the time pretty much that summer because, I mean, we didn't
15 have that much help so I think my brother Angelo was there a
16 lot that summer.

17 Q But he returned to school then for the fall semester.

18 A Yeah, he returned to school, and I was coming home
19 every weekend during -- I believe like right, you know, the end
20 of August towards like probably like most of the way into
21 September because for him, he had a three hour drive where I
22 only had an hour and a half drive so my mom wanted me to come
23 home plus it was a little safer drive for me.

24 Q So if Angelo was training your dad on the computer,
25 it had to have been that summer of 2000 when he was home.

1 A Yeah, I can't remember if he was doing online trading
2 then. I know he has done online trading possibly the last few
3 years, but, yeah, it would have had to have been like over that
4 summer.

5 Q Okay.

6 A I mean, he would show him stuff like when I was home
7 on the weekends because whenever he would come home on the
8 weekends, my dad would like suck every bit of --

9 Q Knowledge?

10 A Yeah, knowledge out of him.

11 Q Who's currently managing your family business?

12 A My mom. Actually I would say it would be my mom and
13 my brother Frankie because they're trying to -- my parents are
14 trying to like pass everything to Frankie now since he didn't
15 want to continue in school. He was more into more of the
16 manual labor type lifestyle.

17 Q And presently Angelo is working at the restaurant
18 full-time?

19 A Right now he is. But remember I did say he was lazy.
20 He's not work really working, you know.

21 Q Currently what type of activities does your father
22 engage in?

23 A Not too much. Besides like washing clothes and
24 ironing clothes, you know, he might do some light cleaning for
25 my mom at the house but nothing too big. I mean, he doesn't

1 sweep the floor. He doesn't mop the floor. He doesn't like
2 pass the vacuum. He doesn't -- I mean, like cleaning
3 countertops a little but most of the time he spends sitting on
4 the couch or sitting at -- you know, sitting at the computer
5 doing stuff and

6 Q Is your father able to do any of the job duties that
7 he was doing prior to July of 2000?

8 A No.

9 Q At the restaurant?

10 A No, I mean, I do it and I'm -- I get beat so I don't
11 see how he can probably do it.

12 Q So you think your dad is disabled from performing
13 those duties?

14 A Yeah, he's been doing it for a very long time. I
15 have been working at the restaurant since I was probably like 8
16 but I probably haven't been doing like the actual really
17 physical stuff since I was possibly like 13 so about 11 years
18 working. I mean, even like -- like I still have pain
19 sometimes. My knees are a little sore every once in a while
20 and my back is sore and shoulders really sore. I mean, you're
21 always moving, especially in the pizza area, you're always
22 standing over the pizza area, well, pretty much anywhere you
23 are, if you're standing over the sink or you're standing over
24 the sub table kind or in the back cooking, you're always
25 standing over the table kind of like hunched over a little bit,

1 and after a while -- you know, you don't get to like sit at a
2 desk, you know, and be comfortable. You always have to be
3 moving around. If you're busy, you're flying.

4 Q So you think your dad is disabled from performing
5 some of those job duties?

6 A Yeah, I mean, over the years wear and tear.

7 Q And you want your father to receive disability
8 benefits from Revere and other Defendants?

9 A Yeah, I mean, he's put a lot of time and effort in.
10 He's busted his butt for a long time. Like I wish I was like
11 as physically able to do all of that work for the rest of my
12 life as he is, but that's why I went to get a good education
13 because I don't think I could handle it and I don't want to
14 kind of be where he is, I mean, as old as he is now, you know,
15 in like the pain, and sometimes, I mean, sometimes he gets up
16 in the morning, he don't even want to walk around the house. I
17 mean, I don't want to be there whenever I get his age.

18 Q Do you intend to work someplace else and use your
19 education?

20 A Yeah, like I have a chemistry degree. I tried to get
21 into pharmacy school, but since everybody is trying to go back
22 to school now, it's kind of hard to get in. But I'm going to
23 try to find a job now at an actual lab or something until I can
24 get into either pharmacy school or grad school.

25 Q Now, these are obvious questions and obvious answers

1 but I just want it for the record. You don't have any type of
2 vocational training or background, do you?

3 A I don't understand the question.

4 Q Well, you haven't taken any courses or any type of
5 training to offer an opinion as to whether somebody is able to
6 perform duties based upon their restrictions and limitations?

7 A I mean besides like common sense.

8 MR. ANGINO: That's right.

9 BY MR. WOLGEMUTH:

10 Q You're not a doctor.

11 A Right, I'm definitely not a doctor.

12 Q And you don't have any experience in analyzing
13 insurance policies or the definitions of insurance policies.

14 A Definitely not.

15 Q I told you they're obvious questions and answers.
16 Okay. Just a few more questions. Prior to your testimony
17 today, did you have any conversations with Mr. Angino?

18 A This morning he just told me to tell the truth, go in
19 there, be comfortable. That's it.

20 MR. ANGINO: Those are my standard instructions,
21 pretend that you are at your kitchen and somebody is talking to
22 you across the table and you just answer his questions. I
23 mean, that's the stock.

24 MR. WOLGEMUTH: I understand.

25 BY MR. WOLGEMUTH:

1 Q How about your father, did you have any conversation
2 with him in the past couple of months about your testimony
3 today?

4 A This morning he's like just go in there and tell the
5 truth. He's like don't be nervous, they're just going to ask
6 you questions. I mean, my mom said the same thing I believe
7 the other day.

8 Q Have you talked to your dad since this lawsuit was
9 filed about the lawsuit or about his claim in any manner?

10 A I haven't really talked to my dad about it. I don't
11 really care to talk to my dad about business stuff and stuff
12 like that because usually it's going to turn into a three hour
13 conversation, but my mom, I was pretty much asking her, you
14 know, what kind of stuff was going on and blah blah blah and
15 just like, oh, you know, Angino and Rovner are trying to help
16 us out, blah blah blah so I really don't -- I don't really dig
17 into knowing too much. I feel if I know less then I don't have
18 to --

19 Q You're safer?

20 A Right, right, especially in my house. The less you
21 know, the better.

22 Q And clearly you didn't have any conversations with
23 any representatives or agents of the Defendants --

24 A No.

25 Q -- for the past three years.

1 A No.

2 Q How about the individual, I think his name is
3 Salavator Feringo, the individual --

4 A Sal Feringo. I don't know how to spell it, F-e-r
5 or --

6 MR. ANGINO: I-n-g-o, something like that.

7 BY MR. WOLGEMUTH:

8 Q You didn't have any conversations with him in the
9 past few years?

10 A Only every once in a while when he would come to the
11 pizza shop or come to the house to see my dad, but like him and
12 I never actually talked. Like, you know, on the phone, hey, is
13 your father there, yeah, hold on, Pa, phone, that's it.

14 Q How about your dad's doctor, have you had any
15 conversations with him regarding your father?

16 A No. I mean, my dad's doctor is the family doctor.

17 Q Which one is that?

18 A Dr. Bowers.

19 Q Have you had any conversations with him about your
20 dad's health?

21 A No.

22 MR. WOLGEMUTH: I think that's all the questions I
23 have.

24 (Whereupon, the deposition was concluded at 9:15
25 a.m.)

1 COUNTY OF LANCASTER :
2 COMMONWEALTH OF PENNSYLVANIA : SS

3 I, Lorraine C. Frick, a Notary Public, authorized to
4 administer oaths within and for the Commonwealth of
5 Pennsylvania, do hereby certify that the foregoing is the
6 testimony of ANTONINO MAZZAMUTO.

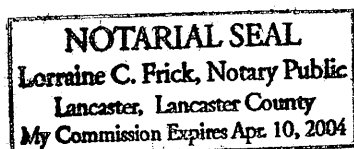
7 I further certify that before the taking of said
8 deposition, the witness was duly sworn; that the questions and
9 answers were taken down stenographically by the said
10 Reporter-Notary Public, and afterwards reduced to typewriting
11 under the direction of the said Reporter.

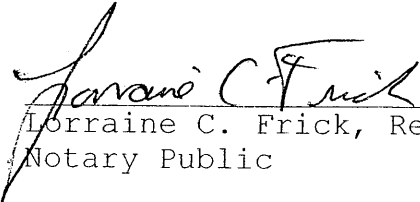
12 I further certify that the said deposition was taken
13 at the time and place specified in the caption sheet hereof.

14 I further certify that I am not a relative or
15 employee or attorney or counsel to any of the parties, or a
16 relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this action.

18 I further certify that the said deposition
19 constitutes a true record of the testimony given by the said
20 witness.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 28th day of June, 2003.




Lorraine C. Frick, Reporter
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENT MAZZAMUTO,
PLAINTIFF
V
UNUM PROVIDENT CORPORATION,
PAUL REVERE LIFE INSURANCE
COMPANY; AND NEW YORK LIFE
INSURANCE COMPANY,
DEFENDANTS

:
:
:
: CIVIL ACTION - LAW
: NO. 1:CV-01-1157
:
:
:
: JURY TRIAL DEMANDED

DEPOSITION OF: ANGELO MAZZAMUTO

TAKEN BY: DEFENDANTS

BEFORE: LORRAINE C. FRICK, REPORTER,
NOTARY PUBLIC

DATE: JUNE 19, 2003, 10:15 A.M.

PLACE: ANGINO & ROVNER
 4503 NORTH FRONT STREET
 HARRISBURG, PENNSYLVANIA

APPEARANCES:

ANGINO & ROVNER
BY: RICHARD C. ANGINO, ESQUIRE

FOR - PLAINTIFF

STEVENS & LEE, P.C.
BY: KIRK L. WOLGEMUTH, ESQUIRE

FOR - DEFENDANTS

COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>
-------------	---------------	--------------

ANGELO MAZZAMUTO

BY: MR. WOLGEMUTH	3	--
-------------------	---	----

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification and filing are hereby waived; and that all objections except as to the form of the question are reserved until the time of trial.

ANGELO MAZZAMUTO, called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WOLGEMUTH:

Q Angelo, my name is Kirk Wolgemuth. I represent the Defendants in this matter. Have you ever been deposed before?

A No.

Q I just want to give you a couple ground rules so you understand what to do. When I ask a question, wait until I'm done asking the question before you respond.

A All right.

Q And make sure you respond verbally so the court reporter can get your responses down rather than just shaking your head.

A Okay.

Q And if you don't understand any of my questions, please ask me to repeat it or to restructure the question.

A All right.

Q Can I have your full name and your home address.

1 A Angelo Pietro Mazzamuto.

2 Q And how old are you?

3 A I'm 23. And my address is 501 Limestone Road,
4 Carlisle, PA, 17013.

5 Q Your father is Mr. Mazzamuto the Plaintiff in this
6 case?

7 A Vincenzo Mazzamuto, yes.

8 Q And from talking to your brothers, I don't know if
9 you're the lazy one or the --

10 MR. ANGINO: He was kidding about he says Angelo,
11 he's the lazy one.

12 THE WITNESS: Of course.

13 (Discussion held off the record.)

14 BY MR. WOLGEMUTH:

15 Q You are the graduate of IUP?

16 A Yes.

17 Q What did you take at IUP?

18 A I double majored in international business and
19 marketing.

20 MR. ANGINO: This is the computer guy.

21 BY MR. WOLGEMUTH:

22 Q When did you graduate from IUP?

23 A May 11th of 2003.

24 Q And you've gone to school there from September of
25 '99?

1 A Eight.

2 Q Ninety-eight.

3 A Yeah, I was one of those five year people.

4 Q And during that time period, Angelo, did you live in
5 Indiana, Pennsylvania?

6 A On and off like during the semesters, yes, and part
7 of one summer.

8 Q So the only time you were home would have been what,
9 three out of four summers or four out of the five summers?

10 A Well, I was there every summer. I was only at IUP
11 for the summer for like five weeks for a summer session but I
12 was home the rest of the summer.

13 Q And during that time period, we'd be talking I guess
14 the summer prior to entering school in '98 and those other
15 summers, were you employed during that time period?

16 A At school or here?

17 Q No, during the summers.

18 A Yeah.

19 Q And where were you employed?

20 A At Genova Restaurant Pizza and Subs.

21 Q Family restaurant?

22 A Yes.

23 Q During the time period the summers that you worked
24 for the family restaurant, can you describe what your job
25 duties were.

1 A Basically everything. Mainly each one of my brothers
2 has a specific job like Nino is good at pizzas so he does that.
3 Other than that, I usually make subs, salads, take orders at
4 the counter, work the cash register, ring out food, cleaning at
5 the end of the day. If we got a new employee, I was usually
6 the person that trained them. I cooked in the back. I helped
7 do the prep work.

8 Q Is there anything that you didn't do during that time
9 period?

10 A I really didn't do any of the hiring of employees
11 or --

12 MR. ANGINO: Firing.

13 THE WITNESS: Firing although I really wanted to many
14 times and like I didn't do the book work and stuff.

15 BY MR. WOLGEMUTH:

16 Q How about like the ordering and stuff like that,
17 would somebody else do that?

18 A Yeah, usually.

19 Q Who was doing that from the summer of '98 through say
20 July of 2000?

21 A If that was when my father was running the pizza
22 shop, then he would do it usually.

23 Q Now, your dad had testified in a deposition similar
24 to this about some of his job duties prior to the time he had
25 his heart attack so I just want to go over those job duties

1 with you.

2 A Sure.

3 Q He testified that he ordered supplies.

4 A Yes.

5 Q And occasionally like once a month he'd have to fill
6 in for a cook if there was a no show.

7 A More than once a month, yes.

8 Q How often would he have to fill in for a no show?

9 A Couple times.

10 Q And generally I'm assuming the no shows were not
11 family members?

12 A Yeah, even if we were sick, we work.

13 Q He also testified that he would greet customers and
14 operate the cash register?

15 A Yes.

16 Q He would pay bills?

17 A Yes.

18 Q Occasionally like once a month he would seat and
19 greet customers?

20 A Yes.

21 Q Occasionally he would take orders from the customers?

22 A Yes.

23 Q Were you working in the summer of 2000 at the
24 restaurant?

25 A Yeah, I worked every summer at the pizza shop, so,

1 yeah.

2 Q After July of 2000 and before you went back to
3 school, am I assuming correctly that you returned to school in
4 September of 2000?

5 A Yes, 2000, yes.

6 Q Did you see your father at the restaurant performing
7 any job duties from July of 2000 until you returned to school
8 in September?

9 A Was that post heart attack?

10 Q Yes.

11 A Okay. No.

12 Q Going forward to the summer of 2001, were you at home
13 that summer?

14 A Yes.

15 Q Did you observe your father performing any job duties
16 in the restaurant during that time?

17 A No, not that I can recall.

18 Q How about the summer of 2002, were you home working
19 that summer?

20 A Yes, that was last summer, no.

21 Q You didn't observe him working at the restaurant?

22 A He wasn't working there, no.

23 Q During your school year, did you ever come home and
24 work weekends at the restaurant?

25 A Yeah.

1 Q How often would that happen?

2 A I would come home maybe three or four times during
3 the semester, three or four times during the semester over a
4 span of four months.

5 MR. ANGINO: Once a month kind of like?

6 THE WITNESS: Yes, and then like Thanksgiving break
7 and Christmas break, stuff like that.

8 BY MR. WOLGEMUTH:

9 Q Were you working at the restaurant during those times
10 when you would come home?

11 A Yes.

12 Q At any time after July of 2000 when you came home on
13 a weekend or a break or a vacation, did you observe your father
14 performing any job duties at the restaurant?

15 A No.

16 Q Has your father even been at the restaurant since
17 July of 2000?

18 A Physically in the pizza shop, yes.

19 Q How often would he do that?

20 A Oh, he comes all the time to eat, sit down with the
21 family.

22 Q Can you tell me what social activities you saw your
23 father be involved in prior to July of 2000?

24 A Social as in outside the pizza shop?

25 Q Yes.

1 A He went not really anywhere. As far as any time he
2 met somebody, it was with our family but sometimes he would go
3 to like one of our lawyer's houses and talk to them, not really
4 much as far as social.

5 Q Any type of recreational activities prior to July
6 2000?

7 A Oh, he worked out. He was going to the YMCA for a
8 while and he also did some stuff at home.

9 Q What was he doing at the YMCA?

10 A He went in the pool and maybe did walking the
11 treadmill and stuff.

12 Q How about at home, what type of --

13 A Treadmill and bike.

14 Q Since July of 2000, has he continued his activities
15 at the YMCA or at home on the treadmill or on the bike?

16 A At home on the couch or on the Lazy Boy. No, he
17 hasn't done anything.

18 Q Is he involved in any type of exercise at all since
19 July of 2000?

20 A The only exercise he gets is walking to his car with
21 his cane and that's it.

22 Q Now, since July of 2000, during the times that you
23 were home in the summer, have you observed your father
24 operating the computer?

25 A Yes.

1 Q How often would you observe him operating the
2 computer during this time period say summer of 2000 to summer
3 of 2001?

4 A Well, when he was trading stocks which I would always
5 help him, I don't know, he was on the computer at least
6 checking every day but then he sold them and that's it.

7 Q He doesn't currently do stock trading?

8 A Right now he's starting again.

9 Q You said that you would help him occasionally?

10 A All the time.

11 Q Did you show him how to basically use a computer?

12 A Yeah, the basic stuff which he forgets all the time
13 and I have to show him again.

14 Q The time that you would return to school say in
15 September of 2000, did your father continue with the stock
16 trading?

17 A When he was -- yeah, for a while.

18 Q And obviously you weren't home then to help him
19 during the time.

20 A He would always grab somebody else at least with some
21 computer skills.

22 Q Who would that be in your family?

23 A Sometimes Nino but --

24 Q Here's your chance to get back at your brother.

25 A They're not intellectually in the technology base as

1 I am.

2 MR. ANGINO: That's what I was going to say, you were
3 the one.

4 BY MR. WOLGEMUTH:

5 Q Your father testified at his deposition that he had
6 done most of the stock trading on the computer.

7 A Yeah.

8 Q He apparently bought and sold over six million
9 dollars worth of stock in 2000 and 2001.

10 A I guess, yeah.

11 Q You don't have any specific knowledge as to how much?

12 A No.

13 Q He also testified that he would follow CNN to get
14 stock ideas.

15 A He would sit in front of the TV and watch all the
16 time, yes, C Span or CNN, whichever one.

17 Q And he made his own buying and selling decisions?

18 A Mainly. For a while he was -- until he got used to
19 the computer. Then after that he did it mainly himself.

20 Q Just so I understand your answer, you're saying prior
21 to his becoming accustomed with the computer, somebody else
22 would do his buying and selling decisions or --

23 A Well, I would help him do the buy or sell.

24 MR. ANGINO: He's talking about the actual
25 transactions.

1 MR. WOLGEMUTH: Okay.

2 MR. ANGINO: You're trying to talk about who made the
3 decisions about what to buy and sell.

4 THE WITNESS: No, no, he knew what to buy. I didn't
5 even know what the symbols meant most of the time.

6 BY MR. WOLGEMUTH:

7 Q So you taught him how to operate the computer to do
8 those things.

9 A Yeah, yeah.

10 Q But it was your father's own decisions to buy --

11 A Right. Two years ago I didn't know what TXM was.
12 Now I know it's Texas Instruments so

13 Q What did you take in college, I'm sorry, marketing
14 and --

15 A International business and marketing, double major.

16 Q Since you graduated this past May, where have you
17 been working?

18 A At the pizza shop.

19 MR. ANGINO: Past May meaning last month.

20 THE WITNESS: Up until I graduated, since I graduated
21 in May up until now.

22 BY MR. WOLGEMUTH:

23 Q Right.

24 A Yeah.

25 Q Are you looking for other type of work?

1 A I am planning on moving to California, but for now I
2 put my resume online, but I have a span of one to three months
3 before I start working because I still have to move out there
4 and I want to be with my family for most of the summer.

5 Q So you have a job already lined up in California?

6 A No.

7 Q Are you specifically moving to California or you're
8 hoping to get a job in California?

9 A That's why I want to go there.

10 Q That's for the computer area?

11 A I want to get into creative advertising in the
12 filming industry.

13 Q Since you've been home in May of 2003, generally what
14 type of job duties are you performing at the restaurant?

15 A Same as I had told you before.

16 Q Who presently is managing the restaurant?

17 A My mother.

18 Q And how often has your mother been at the restaurant
19 since you've been home in May of 2003?

20 A Every day.

21 Q How many hours does she work a day?

22 A Depends on the day. Usually four to six depending on
23 the weekdays and then on the weekends all day which would mean
24 around elevenish, to eleven, twelve hour days, thirteen hour
25 days sometimes.

1 Q Are the weekends your busiest time?

2 A Yeah.

3 MR. ANGINO: So four to six hour days except for the
4 weekends and then they're like twelve hour days.

5 THE WITNESS: Yeah.

6 BY MR. WOLGEMUTH:

7 Q The four to six hours that she works during the week,
8 would that be over like the rush hours?

9 A That would be over lunch and then sometimes she would
10 have to stay until later for the other employees to get to the
11 pizza shop before she can leave so if she gets there in the
12 morning around 10:30, 11:00, sometimes she leaves at 2:30 and
13 then sometimes she has to wait until 5 before she can leave.

14 Q What does your mom do when she's at the restaurant
15 during the week that four to six hour period?

16 A She makes subs and salads. She takes care of the
17 counter. She does the book work that needs to be done and
18 relations with customers.

19 Q Does she serve tables?

20 A Occasionally, yes.

21 Q How long does it take her to get the book work done?

22 A It's hard to tell because when she has a minute, like
23 five minutes she'll go and do it and then she'll -- if they
24 need her then she'll get up and back and forth so

25 Q Would it be fair to say that during your rush periods

1 that she wouldn't be doing book work that she'd be out in the
2 restaurant?

3 A Yeah, because they need her. Most of the time they
4 need her so usually after the busy times like right after lunch
5 she'll go in.

6 Q Where does she go to do the book work?

7 A Right in the little office that's in the pizza shop.

8 Q You don't get involved in any of the book work at
9 all?

10 A No. I want raises sometimes but other than that, no.

11 Q How about the supervisory work, do you do any of that
12 or is that your mom?

13 A She does that mainly. I mean, as far as looking out
14 for the different employees, like I have more knowledge of our
15 new employees or even some that we've had so I'll help them or
16 whatever and tell them what to do sometimes and not to do
17 but

18 Q Do you do any of the hiring decisions or does
19 somebody else do that?

20 A Yeah.

21 Q Somebody else?

22 A No, that's usually my mom.

23 Q I may have asked you this and I apologize if I have,
24 but prior to the time period that your dad had the heart attack
25 in July of 2000, can you tell me what activities you saw him

1 involved in?

2 MR. ANGINO: I think you did ask that.

3 BY MR. WOLGEMUTH:

4 Q I might have. Just bear with me.

5 A Right after?

6 Q No, prior to.

7 A Oh, before, yeah, YMCA.

8 Q Oh, that's right. You did.

9 A And working at home.

10 Q Treadmill and the bike.

11 A Yeah.

12 MR. ANGINO: And visiting lawyers.

13 BY MR. WOLGEMUTH:

14 Q How often would your father visit lawyers?

15 A Oh, for real, oh, just as a friends, not like
16 visiting lawyers as

17 Q Have you had any discussions with Mr. Angino other
18 than the discussion that you may have had just prior to the
19 deposition today about this case?

20 A Right before?

21 Q Just right before.

22 A Yeah, this is the first time I met him is when I
23 knocked on the door for you.

24 Q Can you tell me if you've had any discussions with
25 your father about this case?

1 A He would tell me what the case was but not -- like I
2 knew that there was a case but that's about it.

3 Q Okay. You didn't have any discussions prior to
4 coming in to your deposition today with your dad about your
5 testimony?

6 A No, I just knew I had to go and actually my brother
7 Nino came in while I was sitting at the table so he just said,
8 you know, it was nothing and he just went downstairs
9 and

10 Q Have you had any discussions with Mr. Angino or your
11 father about your testimony at the upcoming trial?

12 A No.

13 Q Were you aware that you're going to be testifying at
14 the upcoming trial?

15 A If I'm here, yes, which I may have to just be here.

16 MR. ANGINO: You probably will have to be here. Even
17 if you're in California, you'll probably have to be here for
18 the trial.

19 BY MR. WOLGEMUTH:

20 Q Do you have any idea what your testimony is going to
21 involve in the upcoming trial?

22 A What do you mean?

23 Q Do you know what questions will be asked from you
24 during --

25 A Oh, I imagine questions like these.

1 MR. ANGINO: This is a smart kid.

2 BY MR. WOLGEMUTH:

3 Q You haven't had any discussions with your dad or
4 Mr. Angino about what your testimony will be?

5 A Oh, no.

6 Q Do you believe that your father should be getting
7 disability benefits?

8 A Definitely.

9 Q And why is that?

10 A Well, because he's disabled but besides -- I mean, he
11 really does nothing, and it's actually hard for us in a way
12 because before he was always gung ho. He was always at the
13 pizza shop and that's when we always seen him and so now it's
14 like we don't see him anymore because we're at the pizza shop
15 and he's always at home watching TV and that's about it so we
16 don't see him as much, and then when we are home, you know,
17 he's either tired or he still stays upstairs because he doesn't
18 really go around the house all that much.

19 Q Does he do anything around the house, any type of,
20 you know, work or anything like that?

21 A The only thing he does is helps out with the laundry
22 and that's about it. I mean, he'll like iron two shirts and go
23 and sit down. He thinks he's the professional iron man.

24 Q How about the administrative stuff at home, bill
25 paying and stuff, does he do anything like that?

1 A He looks over our like checking accounts if we have
2 to pay bills and stuff if we're home and stuff and then on the
3 computer from time to time.

4 Q Who does the bill paying, the actual writing of the
5 checks, do you know?

6 A My father.

7 Q Has it always been that way?

8 A Yeah.

9 Q Is your dad involved in any type of social activities
10 presently? Does go out and do stuff with his friends, does he
11 travel, does he belong to any clubs?

12 A No. Cross country -- no, I'm just joking. No, he
13 really doesn't go out all that much. Only time he usually goes
14 anywhere is at his sister's, my aunts, and that was pretty
15 frequently because my cousin was in the hospital all the time
16 and then she passed away on the 5th so now he's just been
17 visiting my aunt, you know, to keep her uplifting.

18 Q Console her?

19 A Yeah.

20 Q Does your aunt live in Carlisle?

21 A No, she lives in New Bloomfield which is about 25
22 minute drive north into Perry County.

23 Q I do know where that is. I think we're almost done.
24 Did you have any medical training while you were at school?

25 A Medical, no. The only medical training I had was CPR

1 classes in high school and I forget those.

2 Q You haven't had any type of vocational training?

3 A As in --

4 Q As in like being able to review someone's
5 restrictions and reviewing specific job duties to see if they
6 could perform that job with their restrictions, their medical
7 restrictions.

8 A Not training, no.

9 Q You're not a lawyer?

10 A No, I wish.

11 Q And you've never reviewed your father's insurance
12 policy?

13 A No.

14 Q Have you ever had any conversations with any
15 representatives of the Defendants in this case?

16 A No.

17 Q How about -- you can say his name, Feringo?

18 A Feringo.

19 Q Have you had any conversations with him about this
20 case?

21 A No.

22 Q Do you even see him?

23 A Have I seen him?

24 Q In the past six months.

25 A I think the last time I saw him, he came to the pizza

1 shop to say hi, not in the last six months, no.

2 Q And you never had any conversations with Dr. Bowers
3 about your father's health?

4 A I don't even know who that is.

5 MR. WOLGEMUTH: Okay. That's all I have. Thank you.

6 (Whereupon, the deposition was concluded at 10:40
7 a.m.)

1 COUNTY OF LANCASTER :
2 COMMONWEALTH OF PENNSYLVANIA : SS

3 I, Lorraine C. Frick, a Notary Public, authorized to
4 administer oaths within and for the Commonwealth of
5 Pennsylvania, do hereby certify that the foregoing is the
6 testimony of ANGELO MAZZAMUTO.

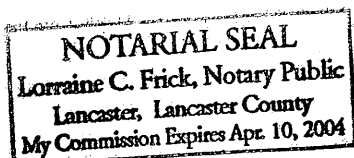
7 I further certify that before the taking of said
8 deposition, the witness was duly sworn; that the questions and
9 answers were taken down stenographically by the said
10 Reporter-Notary Public, and afterwards reduced to typewriting
11 under the direction of the said Reporter.

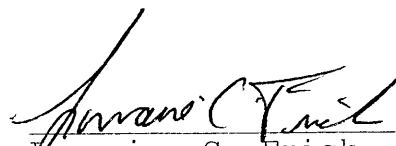
12 I further certify that the said deposition was taken
13 at the time and place specified in the caption sheet hereof.

14 I further certify that I am not a relative or
15 employee or attorney or counsel to any of the parties, or a
16 relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this action.

18 I further certify that the said deposition
19 constitutes a true record of the testimony given by the said
20 witness.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 30th day of June, 2003.




Lorraine C. Frick, Reporter
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENT MAZZAMUTO, :
 :
 PLAINTIFF :
 :
 V :
 : CIVIL ACTION - LAW
 UNUM PROVIDENT CORPORATION, : NO. 1:CV-01-1157
 PAUL REVERE LIFE INSURANCE :
 COMPANY; AND NEW YORK LIFE :
 INSURANCE COMPANY, :
 DEFENDANTS : JURY TRIAL DEMANDED

DEPOSITION OF: FRANCESCO MAZZAMUTO

TAKEN BY: DEFENDANTS

BEFORE: LORRAINE C. FRICK, REPORTER,
NOTARY PUBLIC

DATE: JUNE 19, 2003, 9:30 A.M.

PLACE: ANGINO & ROVNER
 4503 NORTH FRONT STREET
 HARRISBURG, PENNSYLVANIA

APPEARANCES:

ANGINO & ROVNER
BY: RICHARD C. ANGINO, ESQUIRE

FOR - PLAINTIFF

STEVENS & LEE, P.C.
BY: KIRK L. WOLGEMUTH, ESQUIRE

FOR - DEFENDANTS

COPY

WITNESSESNAMEDIRECTCROSS

FRANCESCO MAZZAMUTO

BY: MR. WOLGEMUTH

3

--

1 STIPULATION

2 It is hereby stipulated by and between counsel for
3 the respective parties that reading, signing, sealing,
4 certification and filing are hereby waived; and that all
5 objections except as to the form of the question are reserved
6 until the time of trial.

7 FRANCESCO MAZZAMUTO, called as a witness, being duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WOLGEMUTH:

11 Q Would you please state your full name and home
12 address.

13 A Francesco Mazzamuto.

14 Q Do you mind if I call you Frankie?

15 A Yeah.

16 Q Okay. Your home address?

17 A 501 Limestone Road, Carlisle, PA.

18 MR. ANGINO: Try to keep your voice up and distinct
19 so she can take everything down here.

20 BY MR. WOLGEMUTH:

21 Q Have you ever been deposed before? Have you ever
22 been deposed before, what we're doing today?

23 A Oh, no.

24 Q I just want to give you a couple ground rules. One
25 is as Mr. Angino said, you have to speak loudly so the court

1 reporter can get your answers down.

2 A Okay.

3 Q When I ask a question, please wait until I'm done
4 asking the question before you answer so we're not talking at
5 the same time.

6 A Hopefully I can do that.

7 Q Okay. And also when you answer, Frank, make sure you
8 answer verbally rather than like nod your head because she
9 can't get the nodding of the head.

10 A Okay.

11 Q You're presently 20 years old?

12 A Yeah.

13 Q And have you lived at your parent's home at 501
14 Limestone Road your whole life?

15 A Yeah, practically.

16 MR. ANGINO: They've had that home for 20 years.

17 THE WITNESS: Yeah, we had it for 18 years or
18 something like.

19 BY MR. WOLGEMUTH:

20 Q Okay. And from talking to your brother, I believe
21 you went to school for two and a half months.

22 MR. ANGINO: Three and a half.

23 BY MR. WOLGEMUTH:

24 Q Three and a half.

25 A You mean college?

1 Q Yes.

2 A I went for about possibly about two and a half. I
3 don't remember.

4 Q And what school did you go to?

5 A IUP.

6 Q And that's the same place that Angelo went?

7 A Yeah.

8 Q When did you graduate from high school?

9 A 2001.

10 Q And you went to college then the fall of 2001?

11 A Yeah.

12 Q And college wasn't your thing?

13 A I don't like sitting there listening to people teach
14 me.

15 Q Have you taken any other type of educational courses,
16 any training or --

17 A No.

18 Q Now, as a youngster, were you involved working at
19 your family business?

20 A Yeah, I helped out.

21 Q When would you have begun working for the family
22 business?

23 A I don't know. You kind of just tend to work. Like
24 actual working, I'm not really sure.

25 Q I mean, were you --

1 A Like --

2 Q Fifteen years old?

3 A -- at 15 I would gradually help out and then you
4 gradually start doing more stuff as you grow up. It's a family
5 business. That's what everyone does. You never really start
6 working.

7 MR. ANGINO: Your brother said he was eight. Were
8 you that young?

9 THE WITNESS: Well, when we started helping out,
10 yeah, we were young.

11 MR. WOLGEMUTH: I guess child laws don't apply to
12 family business.

13 THE WITNESS: Like we all actually started probably
14 like eight, nine years old but actual working full-time, stuff
15 like that.

16 BY MR. WOLGEMUTH:

17 Q Now, you graduated in 2001 so you were attending high
18 school full-time prior to that time?

19 A Yeah.

20 Q Were you working for the family business while you
21 were attending high school?

22 A Yeah.

23 Q And that would have been on weekends or did you work
24 nights also?

25 A If I needed to be there at nights, I would work

1 nights.

2 Q Kind of come and go type thing?

3 A If we had employees that didn't want work, we didn't
4 have them, we'd work which not a lot of people like to work
5 anymore.

6 Q Prior to July of 2000, would you have observed your
7 father working at the restaurant?

8 A Yeah.

9 Q That would have been the times that nights or
10 weekends or the summers that you worked there?

11 A Yeah. Like we went to eat together or something like
12 that, then I saw more then after that like going to eat and
13 going to work, doing all of that.

14 Q Now, your father testified at a deposition that he
15 performed various job duties, and I just want to go over those
16 duties with you and see if you agree with things that you
17 observed your father doing.

18 Again, this is all prior to July of 2000, prior to
19 his heart attack.

20 A Okay.

21 Q He testified that he ordered supplies.

22 A Oh, you want me to comment after each. I thought you
23 were going to say the whole thing.

24 Q Yes.

25 A Yes.

1 Q And when he was ordering supplies, where was that
2 done generally?

3 A In the shop. What do you mean?

4 Q Is there a place in the restaurant that he would have
5 ordered the supplies, a specific place, like is there an
6 office?

7 A Well, you would have to go to every place, like every
8 piece of the shop to what you need. Like you have to walk into
9 the walk-in cooler and freezer to see what you need because you
10 can't really go into the storage unit to see that.

11 Q So you would kind of make a walk through to observe
12 what supplies you needed?

13 A Yeah.

14 Q Then the supplies would be called in and the order
15 would be called in?

16 A Yeah.

17 Q And would that order be called in in the office area
18 of the restaurant?

19 A Yeah, unless like certain companies they have people
20 that come over and they need the telephone line so it's outside
21 the office. That's for some. Some it's in the office. Some
22 they don't have to be there.

23 Q Would most of your supplies be ordered over the phone
24 or would salesmen come to sell supplies or is it a mixture?

25 A It's a mix.

1 Q Your dad also testified that he would fill in for a
2 cook if the cook didn't show and that occurred once a month.

3 A Yeah.

4 Q He would also greet customers and operate a cash
5 register and pay bills.

6 A Yeah.

7 Q And occasionally he'd have to seat customers if that
8 was necessary.

9 A Yeah.

10 Q And occasionally he would have to actually take
11 orders, you know, patron orders?

12 A Yeah.

13 Q During that time period prior to July of 2000, the
14 times that you worked which would have been evenings, weekends
15 and summers, how often were you observing what your father did?

16 A Every time I was there.

17 Q So he was pretty much there working the same times
18 you were working?

19 A Yeah, or more.

20 Q Or more. Well, I mean --

21 A Like, if he needed it, yeah.

22 Q Now, after July of 2000, how often did you observe
23 your father at the restaurant?

24 A After.

25 MR. ANGINO: After the heart attack.

1 BY MR. WOLGEMUTH:

2 Q Right.

3 A He wasn't there really.

4 Q Did you see him at all at the restaurant after July
5 of 2000?

6 A Like when we would all -- like he would come to eat
7 and then he would leave.

8 Q Did you see him perform any type of job duties of the
9 restaurant after July 2000 to the present?

10 A No.

11 Q Since July of 2000, have you observed your father
12 engaging in any type of social activities or anything, any type
13 of activities around the house?

14 A When you say social activities first.

15 Q Social activities.

16 A He talks to us.

17 Q Anything besides talking to his family, does he
18 engage in any type of activity outside the house, club or
19 sport?

20 A No.

21 Q How about any other activities?

22 A No.

23 Q Does he do anything around the house that you've
24 observed since July of 2000?

25 A Well, he might occasionally do the laundry or

1 something like that.

2 Q How about the financial stuff around the house, the
3 paying of the bills, the mortgage or things like that?

4 A I think my mom does all of that.

5 Q Has that always been the case, that your family
6 bills --

7 A Well, no, before the heart attack, my father would do
8 it. Go ahead.

9 Q Before July of 2000, was your mother responsible for
10 personal bills, not business bills, personal bills?

11 A I don't know.

12 Q You don't know.

13 A I don't know. I was either working or at school so I
14 wasn't into that. Like I'm gradually getting into that
15 so

16 Q Who presently takes care of the paying the business
17 bills?

18 A My mom.

19 Q What are your job duties currently at the restaurant?

20 A Mine, a little bit of everything. I'm gradually
21 taking over the pizza shop so I have to learn it.

22 Q And what are you doing?

23 A Getting orders, like placing orders, working in the
24 kitchen preparing, practically everything my dad did before
25 July of 2000.

1 Q Do you order supplies?

2 A Yeah.

3 Q And you are a cook?

4 A Yeah. That's why we learned when we were eight.

5 Q Do you occasionally greet customers?

6 A Yeah.

7 Q You use the cash register?

8 A If need be, yeah.

9 Q Do you greet and seat customers?

10 A Yeah.

11 Q Take orders?

12 A Yeah.

13 Q How much time in a day are you involved in food prep?

14 A All day. I mean, all day, if you need it, you do it.

15 You do whatever else needs to be done for the morning. The
16 preparation is always -- no matter where you are, prep is
17 always done.

18 Q The food preparation that you do either during the
19 course of the day or in preparing for the following day, what
20 percent of your time is engaged in that?

21 A Like close to half. I mean, it all depends. If you
22 need it, you need it. Like I said, if you need green peppers,
23 you do green peppers. If you don't need to, then you don't
24 need to.

25 Q Presently are you like the head chef of the

1 restaurant?

2 A Yeah.

3 Q And do you have other people as assistant chefs or
4 assistant cooks?

5 A We have another employee who knows how to cook or if
6 my brothers, they're there, they'll help me cook if I need
7 help.

8 Q And --

9 A But mainly he's the pizza man, the other guy. I'm
10 the cook. He's the pizza man.

11 Q You're talking about Antonino?

12 A No, I'm talking about one of our employees.

13 Q Oh, okay. I see.

14 A And Nino does too. My brother, I'm sorry, I thought
15 he would shorten his name too.

16 Q Antonino, is he also the pizza guy?

17 A Yeah.

18 Q In terms of your business, Frank, how would you break
19 down like the pizza business and the other business in terms of
20 percent of sales?

21 A It all depends. The economy sucks.

22 Q The economy sucks?

23 A Hum-hum.

24 MR. ANGINO: I think he wants to know the percentage,
25 how much would you say is pizza, how much would be other food.

1 You can't divide it.

2 THE WITNESS: No, you can't. Like I may be busy in
3 the kitchen the one day and the pizza man might be busy the
4 next day. It's confusing but everyone is always busy. Which
5 one is busier, you can't say.

6 BY MR. WOLGEMUTH:

7 Q Has business declined in the last few years?

8 A Yeah, I mean, it's the economy. I mean, eventually
9 it does, sometimes it doesn't. It's confusing.

10 Q Who would know better? Would your mother know better
11 in terms of how much business you're doing?

12 A Probably because she sees the money. I'm seeing the
13 people.

14 Q You're presently seeing less people?

15 A No. It depends on what day it is or month it is, who
16 is going on vacation and who's not, who's still in town and
17 who's out of town.

18 Q Since July of 2000, have you observed your father
19 working or operating the computer at home?

20 A You mean after July of 2000?

21 Q After he had his heart attack, have you seen him
22 operate the computer at home?

23 A Occasionally. He might look over my shoulder and he
24 might do something.

25 Q What would you see him doing?

1 A I don't know. I don't pay attention to what he
2 really does on the computer.

3 Q Do you use the computer?

4 A Yeah.

5 Q Did you receive training from your father or did you
6 train him how to use the computer?

7 A I got trained from school or from my brothers.

8 Q Did you ever see him trading stock since July of
9 2000?

10 A I don't know.

11 Q You don't know?

12 A No.

13 Q You never talked to him?

14 A I'm at work most of the time. He's at home most of
15 the time. The only time I see him is after work he's at home.

16 Q You never had any discussions with him since July of
17 2000 about his activities on the computer, his stock buying and
18 investments?

19 A No.

20 Q Have you seen any change in your father's activities
21 from say April of 2000 to the present?

22 A No. As in like how much he does?

23 Q Right.

24 A He doesn't do much. Probably does less than he did
25 before.

1 Q You see anything specifically that he's not doing
2 presently that he did a year ago?

3 A Being able to stand much. Wait. Ask that question
4 again.

5 Q I think my question was --

6 A You said that now the whole April thing is confusing.
7 MR. ANGINO: April 2002. He's brought a new time
8 period. Before it was July of 2000. Now basically you're
9 saying --

10 MR. WOLGEMUTH: Last year.

11 MR. ANGINO: Last year. Have you seen him go down
12 hill more?

13 THE WITNESS: Oh, yeah, he's gone down hill more.

14 BY MR. WOLGEMUTH:

15 Q In what way?

16 A Being able -- like he can't stand as much now like he
17 did before.

18 Q How much was your father standing, you know, a year
19 ago?

20 A Not much more than he is now. It was just -- it was
21 a decrease.

22 Q Have you had any discussions with your father about
23 this lawsuit?

24 A Not really. Like I said, mostly I'm at the pizza
25 shop. I didn't even know I was coming in this morning.

1 Q Has he had any discussions in the past three months
2 about this claim or this lawsuit with you?

3 A Not really. We don't -- I don't speak about it just
4 for the fact of I don't really want to get into it.

5 Q Do you and your father talk business at all?

6 A As of what, like it's a father and son conversation
7 if that's what you mean?

8 Q Like what are the sales like, you know, did the
9 employees show up, those kinds of things?

10 A No. He's trying to keep that on me. That way I
11 learn how to do it. He doesn't want to do anything with the
12 pizza shop. Like mainly me and my mom are doing it so she
13 might ask me rather than him.

14 Q What are your mom's duties presently at the
15 restaurant?

16 A What does she do?

17 Q Hum-hum.

18 A She greets people, she might occasionally help out.
19 She's there. Like I said, mainly I'm taking over so

20 Q Does your mom still work full-time there or is she
21 working less than full-time?

22 A I don't know. What do you consider full-time?

23 Q Well, how many hours a week is she there? I guess
24 that's the question.

25 A It depends.

1 Q Give me an idea.

2 A I don't know.

3 Q Is it ten hours a week, is it twenty hours a week?

4 A More than ten. I don't know.

5 Q Well, you're there almost all the time.

6 A Like I see her come and go, but I don't really pay
7 attention when she comes and goes because I'm working so I
8 don't really pay attention if she comes or goes or if she's
9 staying because I have other stuff to do. If I'm not in the
10 back cooking, I'm preparing food. Like I'm not going to give
11 you a time if I don't know.

12 MR. ANGINO: And that's the best thing if you don't
13 know how many hours she spends there.

14 BY MR. WOLGEMUTH:

15 Q How many hours a week are you there at the
16 restaurant?

17 A I don't know. I never counted. I figured if I
18 counted, that's a bad thing.

19 Q Well, what time do you show up in the morning?

20 A Ten thirty. If it's Friday and Saturday, I get there
21 at ten.

22 Q And what time do you leave?

23 A After clean up or what time do we close?

24 MR. ANGINO: After clean up.

25 BY MR. WOLGEMUTH:

1 Q After clean up.

2 A Ten thirty. Friday and Saturday maybe eleven thirty
3 because we close at ten thirty, ten and eleven.

4 Q Is your mother working at nights while you're there?

5 A Yeah, no.

6 Q Sometimes she does, sometimes she does not?

7 A Yeah.

8 Q Now, I know Mr. Angino spoke with you a few minutes
9 prior to us beginning this deposition today. Prior to that
10 time, have you had any conversations with him about this
11 lawsuit?

12 A I didn't even know what he looked like. That's why I
13 had to look at his name before I even said anything.

14 Q Obviously you haven't had any conversations with any
15 representatives of the Defendants, the insurance companies
16 about this lawsuit?

17 A No.

18 Q At any time?

19 A No.

20 Q Have you had any conversations with Dr. Bowers about
21 your father's health?

22 A No. I don't even know what Dr. Bowers looks like.

23 Q Do you think your father is able presently to perform
24 any of the job duties that you do at the restaurant?

25 A No.

1 Q How about the ordering?

2 A No.

3 Q Why wouldn't he be able to do that?

4 A Just because of the fact that you do have to walk
5 around and you have to bend down. Even with ordering, you just
6 have to move.

7 Q And the administrative work, the paperwork, the bill
8 work and stuff like that, could he do that?

9 A I don't know what you need to do for paperwork yet.

10 Q Well --

11 A Like, I mean --

12 Q Who does the -- prepares the paychecks?

13 A My mom does all of that.

14 Q Have you observed your mom do the paychecks?

15 A No.

16 Q You don't know what's involved in preparing
17 paychecks?

18 A Not really. I mean, I learned in school how to pay a
19 check but it's most likely different in school than actually
20 doing a check for people. I'm not sure yet how to make checks.
21 It's different in learning in school than how to do it. That's
22 why I don't like school because they teach you stuff and it's
23 different.

24 Q How about the scheduling, who does that?

25 A My mom and I.

1 Q Would your dad be able to do that?

2 A Now, no, just for the fact of he doesn't know any
3 more probably how many people we need because he hasn't been
4 working so

5 Q So you're saying because he hasn't been there, he's
6 not able to do things because he doesn't know the people?

7 A Well, scheduling, you just write a number. It's not
8 like you actually -- I mean, scheduling is the smallest part of
9 the pizza shop. You say you come in or you don't come in. I
10 mean

11 Q Do you want your father to get disability benefits
12 from the Defendants in this case?

13 A I think he deserves it, yeah, if that's what you
14 mean.

15 Q You've never reviewed the insurance policy that your
16 father has?

17 A No. That's not my policy to look at.

18 Q You never had any medical training?

19 A No.

20 Q And you've never had any type of vocational training?

21 A What do you mean?

22 Q Training like in school as to whether or not someone
23 is able to do a job based upon responsibilities of the job and
24 the individual's health.

25 A No.

1 Q Do you know who Sal Feringo is?

2 A No, unless you're saying it wrong.

3 Q I'm probably saying it wrong.

4 A Feringo, yes, then I do know who that is.

5 Q You know who that is?

6 A I've seen him. Yeah, I've seen him a few times.

7 MR. ANGINO: Off the record.

8 (Discussion held off the record.)

9 BY MR. WOLGEMUTH:

10 Q Mr. Feringo, who is he?

11 A Okay, that I'm really not sure but I've seen him.

12 Q Have you had any discussions with him about this
13 lawsuit?

14 A No, I haven't seen him for a long time.

15 MR. WOLGEMUTH: I think I'm done.

16 MR. ANGINO: Thank you.

17 (Whereupon, the deposition was concluded at 10:00
18 p.m.)

19

20

21

22

23

24

25

1 COUNTY OF LANCASTER :
2 COMMONWEALTH OF PENNSYLVANIA : SS

3 I, Lorraine C. Frick, a Notary Public, authorized to
4 administer oaths within and for the Commonwealth of
5 Pennsylvania, do hereby certify that the foregoing is the
6 testimony of FRANCESCO MAZZAMUTO.

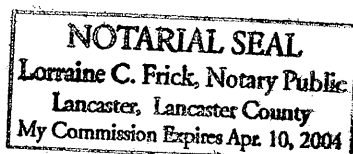
7 I further certify that before the taking of said
8 deposition, the witness was duly sworn; that the questions and
9 answers were taken down stenographically by the said
10 Reporter-Notary Public, and afterwards reduced to typewriting
11 under the direction of the said Reporter.

12 I further certify that the said deposition was taken
13 at the time and place specified in the caption sheet hereof.

14 I further certify that I am not a relative or
15 employee or attorney or counsel to any of the parties, or a
16 relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this action.

18 I further certify that the said deposition
19 constitutes a true record of the testimony given by the said
20 witness.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 30th day of June, 2003.




Lorraine C. Frick, Reporter
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENT MAZZAMUTO, :
PLAINTIFF :
V :
: CIVIL ACTION - LAW
UNUM PROVIDENT CORPORATION, : NO. 1:CV-01-1157
PAUL REVERE LIFE INSURANCE :
COMPANY; AND NEW YORK LIFE :
INSURANCE COMPANY, :
DEFENDANTS : JURY TRIAL DEMANDED

DEPOSITION OF: PAMELA HAGEURICH

TAKEN BY: DEFENDANTS

BEFORE: LORRAINE C. FRICK, REPORTER,
NOTARY PUBLIC

DATE: JUNE 19, 2003, 11:15 A.M.

PLACE: ANGINO & ROVNER
4503 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA

APPEARANCES:

ANGINO & ROVNER
BY: RICHARD C. ANGINO, ESQUIRE

FOR - PLAINTIFF

STEVENS & LEE, P.C.
BY: KIRK L. WOLGEMUTH, ESQUIRE

FOR - DEFENDANTS

COPY

WITNESSESNAMEDIRECTCROSS

PAMELA HAGEURICH

BY: MR. WOLGEMUTH

3

--

1 STIPULATION

2 It is hereby stipulated by and between counsel for
3 the respective parties that reading, signing, sealing,
4 certification and filing are hereby waived; and that all
5 objections except as to the form of the question are reserved
6 until the time of trial.

7 PAMELA HAGEURICH, called as a witness, being duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WOLGEMUTH:

11 Q My name is Kirk Wolgemuth and I represent the
12 Defendants in this case. Have you ever been deposed before?

13 A No.

14 Q I just want to go over a couple of ground rules.
15 When I ask a question, please wait until I'm done asking the
16 question before you answer me.

17 A Okay.

18 Q And when you respond, you have to respond verbally so
19 the court reporter can take down your response.

20 A Yes, okay.

21 Q And if you don't understand my question, ask me to
22 rephrase it or repeat it if necessary.

23 A Okay.

24 Q Please state your full name and home address.

25 A Pamela Marie Hageurich.

1 Q Can you spell your last name.

2 A H-a-g-e-u-r-i-c-h. Address is 432 Limestone Road,
3 that's one word, Carlisle, Pennsylvania, 17013.

4 Q Do you mind if I call you Pam during the course of
5 the deposition?

6 A That's fine.

7 Q Pam, do you know Vincenzo Mazzamuto?

8 A Yes, I do.

9 Q How do you know him?

10 A He's a neighbor. He lives catty corner. I live on
11 this corner and he lives on that corner.

12 Q How long have you known Mr. Mazzamuto?

13 A I bet 18, 20 years, 18, 20 years.

14 Q And I'm assuming you know him because you're
15 neighbors or did you know him prior to becoming neighbors?

16 A No, well, I knew the pizza store but I really didn't
17 get to know him until he moved in.

18 Q Okay. Do you do social things with the Mazzamutos or
19 do you just know him as a neighbor?

20 A Neighbor but social like not -- like what do you mean
21 by social?

22 Q Like dinner together, do you go to events together?

23 A No, they don't really go to events. That's what I
24 was asking. Like I'll go and have tea at their house, you
25 know, you know. I have tea like once, twice a week with them

1 or I stop at the pizza store and see Geri and the kids, that's
2 the wife of the pizza store or I go -- you know, you know, we
3 don't go to like events because I don't do events either, but,
4 you know.

5 Q So generally the things that you do with them would
6 be having lunch or tea together, something to that effect?

7 A Yeah, tea and talk, and, hum-hum. I sit out on their
8 deck or they might come over to my house, sit on my deck.

9 Q Are you friends with a specific or Mr. Mazzamuto or
10 Mrs. Mazzamuto or both?

11 A Both.

12 Q One more than the other?

13 A No. And the kids also. I'm kind of like their, you
14 know.

15 MR. ANGINO: Adopted mother.

16 THE WITNESS: Yeah, I am. I'm pretty close with
17 them, yeah.

18 BY MR. WOLGEMUTH:

19 Q Do you work?

20 A No, I'm a housewife. That's why I have had time to
21 do that.

22 Q And have you been a housewife the past 20 years?

23 A Yeah, hum-hum. I used to work but then I decided my
24 husband works for DEP so he wanted me to be a stay at home mom
25 and then you have to be a stay at home mom when the kids get

1 older too.

2 Q Is that good or bad?

3 A It's kind of bad but you got to be there when they're
4 older moreso than younger.

5 Q Now, prior to July of 2000, did you observe --

6 MR. ANGINO: That's when he had his heart attack.

7 THE WITNESS: Okay.

8 BY MR. WOLGEMUTH:

9 Q Did you observe any of Mr. Mazzamuto's activities?

10 A Before or after?

11 Q Before July of 2000, before he had his heart attack.

12 A Yeah, before he had his heart attack.

13 Q What kind of activities was he involved in prior to
14 having his heart attack in July of 2000?

15 A Let me think. That was before he had his heart
16 attack. So he was regular.

17 Q Right. And my question was what kind of activities
18 did you see him --

19 MR. ANGINO: At both work and at home.

20 THE WITNESS: Oh, well, before he had his heart
21 attack, I think he was normal. I'm trying to think. It's hard
22 to get the dates, you know. But, yeah, I would go in the pizza
23 store, and they would all be in the pizza store, and before he
24 got sick -- you know, I can't even remember the dates. Time
25 just flies when you have kids.

1 MR. ANGINO: I think the easiest thing is before
2 heart attack, after heart attack.

3 THE WITNESS: Okay. But, you know, he would go in
4 the pizza store and he'd spend long hours and he'd bake his
5 bread and make his pizza and he'd do everything. You know, I'd
6 go in the pizza store, and, you know, yaahh, uaahh, you know,
7 all his Italian talk and I'd go in there and he'd be making his
8 pizza and everything and then he'd come home and he'd do stuff
9 at home. He'd just do everything.

10 BY MR. WOLGEMUTH:

11 Q What kind of stuff would he do at home?

12 A Well, he was mostly in the pizza store, but when he'd
13 come home, you'd see him -- well, he never mowed the grass.
14 The kids always took care of the grass mowing I think. I don't
15 remember. He might have but I'm trying to think back.

16 Q How about recreational activities, did he exercise,
17 did he ride bike, walk prior to July of 2000?

18 A He used to walk around. He'd walk. You always see
19 him around. He was like a normal person, you know what I mean.

20 MR. ANGINO: You say normal healthy, that kind of.

21 THE WITNESS: Yeah, yeah, I'm trying to -- you know,
22 he just seemed to be like regular.

23 BY MR. WOLGEMUTH:

24 Q How many hours was he working prior to July of 2000,
25 do you know?

1 A I bet a lot.

2 Q Do you have any specific idea or recollection of what
3 he would work?

4 A No, but he'd be off days too. I mean, they would
5 have two days off, two or -- you know, I think they used to
6 always make sure, you know, they had a lot of people, you know.
7 Depends, you know, it depends what people they had working for
8 them at that particular time, but he would always I think would
9 try to get a couple days off.

10 Q Would he and his wife take off days together or would
11 one take off and one still work, if you know?

12 MR. ANGINO: As to any of these questions, I'm sure
13 he doesn't want you to guess. He wants if you know the answer
14 to give him the answer.

15 THE WITNESS: Yes.

16 MR. ANGINO: And if you don't know --

17 THE WITNESS: I'm going to say I can't say specific,
18 but I think -- I don't know if I'm going to answer that because
19 it might have been equal. I don't know. I can't remember.

20 BY MR. WOLGEMUTH:

21 Q That's fine. If you don't know, that's --

22 A I can't remember. I can't remember.

23 Q That's fine. Now, Mr. Mazzamuto testified in this
24 case prior to your deposition here today, and he discussed the
25 type of job duties that he performed at his restaurant, and I

1 just want to go over them with you and see if you agree or
2 disagree with them.

3 MR. ANGINO: And, again, this means if you know.

4 THE WITNESS: If you don't know, I'll tell you.

5 MR. ANGINO: If you don't know, tell us.

6 BY MR. WOLGEMUTH:

7 Q Now, he testified that he would order supplies.

8 A Hum-hum.

9 Q Did you see him order supplies?

10 A I didn't see him but I knew he did just from what
11 they say but I didn't see him.

12 Q How do you know that he did that?

13 A Well, when I would go in, I stop in at the pizza
14 store too, and I'd go in the back door, and, you know, I'm not
15 like regular people, you know, and I'd just go in the back
16 door, and I -- you know, they would say, oh, he ordered
17 supplies, but I would never see him do it but I just know they
18 said it. I can remember them saying, you know, what jobs, you
19 know, because like I think they all have their specific jobs.
20 Is that good enough?

21 Q That's good enough.

22 A Okay.

23 Q He testified that occasionally like once a month he'd
24 have to fill in for a cook if the cook didn't show up for work?

25 A Hum-hum.

1 Q Have you seen him cooking when you're there?

2 A Hum-hum.

3 Q What type of cooking was he doing?

4 A In the back. They have like when you walk in, they
5 have like their pizza place, you know, shelf, you know, where
6 you order and then you walk like around here and they had their
7 grill. They still have it. They have their grill, and, yes, I
8 have seen him cook.

9 Q At the grill?

10 A Hum-hum, like back in here. And then like over in
11 here, he would make -- over in this side like here is the front
12 of the pizza thing, then over here on the right where they make
13 pizzas, I've also seen him make pizzas over in the pizza place
14 and like around the corner. I don't know if I ever -- I can't
15 say I saw him at the salad place, but that salad place is
16 different cooking than in the back and in the pizza place.

17 MR. ANGINO: You saw him cooking at the cooking
18 places.

19 THE WITNESS: At the cooking places like in the back,
20 like making the meals like spaghetti or chicken alfredo, all
21 that stuff and then over here in the pizza place, and then over
22 here in the middle salads, and mostly Geri or the kids made the
23 salads and the cold subs so they had three places and then over
24 here is the dishes.

25 MR. ANGINO: Did you ever see him do the dishes?

1 THE WITNESS: No, no.

2 BY MR. WOLGEMUTH:

3 Q He testified that he'd also greet customers and
4 operate the cash register.

5 A Hum-hum.

6 Q Have you seen him do that?

7 A Hum-hum. I seen him at the cash register and greet
8 customers, hum-hum.

9 Q He also would pay bills. Have you ever seen him do
10 that while you were there?

11 A I didn't see him do that but I knew he did, just from
12 going in there and they would say about him doing that but I
13 never saw him sit down and pay bills.

14 Q He said that occasionally like once a month he would
15 greet customers and seat them.

16 A Hum-hum.

17 Q Have you seen him do that?

18 A Yes.

19 Q Did he ever take your specific order, food order?

20 A Yes.

21 Q Now, after July of 2000 when Mr. Mazzamuto had his
22 heart attack, did you see him at the restaurant at any time?

23 A I saw him there, but I never saw him like cooking or
24 doing like greeting or any of like that. I would see him, he
25 goes and eats, but I never saw him back in like in this spot

1 or, you know, these different spots cooking or --

2 Q This is at any time after July of 2000 to the
3 present?

4 A No, but I see him in there like eating but I don't
5 see him -- I just was in there last week, and I saw him in the
6 back. He was leaving. He was eating and he was walking out
7 the back door because when I go in, I go in the back door also.

8 Q Do you know who's taken over his responsibilities
9 since July of 2000?

10 A Frankie. What's his name, Francesco I think he goes.

11 MR. ANGINO: Fransesco.

12 THE WITNESS: Yeah, and Geri his wife.

13 BY MR. WOLGEMUTH:

14 Q What does Mrs. Mazzamuto do that Mr. Mazzamuto had
15 done before?

16 A She pays all the bills. She runs the whole
17 restaurant. She hires, she, you know, does the firing which I
18 hope there isn't any but she runs like the entire restaurant.

19 Q Do you know how many hours a day Mrs. Mazzamuto
20 spends at the restaurant since Mr. Mazzamuto stopped working?

21 A Her whole life.

22 Q Now, again, since July of 2000.

23 A Okay. She's probably there like Monday, Tuesday,
24 Wednesday she's there from quarter of 11 she leaves the house,
25 and she's there until at least some days 4, 5, and then some

1 days -- on Thursday, Friday, Saturday she's there all day.
2 Thursday, Friday, Saturday and Sunday she's there from quarter
3 11 until like 10 at night. She might come home for a little
4 bit but not very often.

5 MR. ANGINO: So you can see her car leave and her car
6 come back.

7 THE WITNESS: Yeah, I seen her. And Monday, she's --
8 I don't know, she's -- she's a wonderful lady. And Monday and
9 Tuesday and Wednesday she goes in for a half -- like until like
10 four and then she comes home and cooks, and then the other
11 days, Thursday, Friday, Saturday and Sunday, she cooks for them
12 at the restaurant because she can't get away. Like they eat
13 like at 3:00, you know, when there's nobody in there because a
14 couple of times I went into the restaurant like at 3, 2 or 3:00
15 I stopped in there and they're in there eating as a family.
16 So, you know, like two, three they're eating as a family, but
17 like some -- like sometimes now like on Monday, Tuesday,
18 Wednesday, for example, she might be in there, she might not --
19 like the other day she didn't come home because I stopped in
20 there to get something and she didn't come home at all. So,
21 you know, she was there all day, so, you know, it all depends
22 but not very often.

23 BY MR. WOLGEMUTH:

24 Q How old is Mrs. Mazzamuto, do you know?

25 A Yeah, she's younger than me. I think she's 45.

1 Q Still young.

2 MR. ANGINO: Young child.

3 THE WITNESS: I know.

4 BY MR. WOLGEMUTH:

5 Q Since July of 2000, have you seen Mr. Mazzamuto
6 engaged in any type of recreational, social activities?

7 A They used to always play these balls, you know,
8 Italian --

9 MR. ANGINO: Bocci ball.

10 THE WITNESS: And he never plays that anymore since
11 then. They used to spend hours out there, you know, before he
12 had his heart attack. I never see him out there playing.

13 BY MR. WOLGEMUTH:

14 Q DO they have a court at their house?

15 A No, they just have these balls and they throw on the
16 side of the yard, what's it called?

17 MR. ANGINO: Bocci.

18 THE WITNESS: But now I see the kids playing but I've
19 never seen -- I don't see them playing that often but I never
20 see him playing. Like if relatives would come over, they used
21 to always go out and play. He's never out there playing.

22 BY MR. WOLGEMUTH:

23 Q Do you still go over for tea occasionally?

24 A Oh, yeah.

25 Q What's he doing when you see him when you go over for

1 tea?

2 A When I go over like I walk in this way, excuse my
3 hand so I can explain.

4 MR. ANGINO: That's all right.

5 THE WITNESS: I walk in like this way and like over
6 here there's a living room, you know, so over here's a living
7 room and there's great big easy chair, he's mostly on that, and
8 then he sometimes gets up and comes over and walks around a
9 little bit and then he walks over in here and he goes to the
10 bathroom and then he comes back and sometimes he sits over here
11 and talks to -- like on a chair, but, you know, he does, not a
12 lot, but, you know, sometimes he comes over and sits over here
13 but he uses a cane, you know.

14 BY MR. WOLGEMUTH:

15 Q I'm just trying to think of the video I saw of the
16 inside of his house. It's a two story house?

17 A No, it's a ranch.

18 Q There's a basement though?

19 A Yes.

20 Q And there's steps that go into the basement?

21 A Yeah, but he doesn't go down there -- I never saw him
22 go down there because like when you come in their house, right
23 here is like a sliding glass door and over here is like a
24 regular door and that goes into the garage and you can go into
25 the house this way, but everything is all one floor but then

1 you can go down the basement, and down in the basement, that's
2 fixed up for like their older boys live down there, and then
3 like the regular, Geri and Vinny live like over here in this
4 room and then they have their living room and they have their
5 kitchen and bathroom then like in the back they made that
6 into -- a long time ago before he had his heart attack. It's
7 like a computer room.

8 Q Is he unable to go down the steps at his house?

9 A I don't -- I don't know.

10 Q But you've never seen him go up or down then since
11 you've been there, since July of 2000.

12 A No.

13 Q Have you ever seen him go up and down the steps in
14 his basement prior to July of 2000?

15 A Hum-hum, because before that they used to use that
16 room more, you know, or they still use it because it's like a
17 rec room, and, you know, bedrooms, but I saw him beforehand,
18 before he had his heart attack but I haven't seen him now go
19 down there so I don't know if he goes down or not. He might.

20 Q Have you seen him doing any housework since July of
21 2000?

22 A Nope.

23 Q Does he take care of the grass outside or anything?

24 A Nope. I see him walk around his house. I don't even
25 see him walking out for the mail too often. Am I doing okay?

1 MR. ANGINO: You're doing wonderful. We didn't know
2 what you were going to say so we're all finding out.

3 THE WITNESS: Oh, yeah, I didn't either.

4 MR. ANGINO: I don't think he likes what you're
5 saying. He represents the insurance company.

6 THE WITNESS: Oh, I'm sorry.

7 BY MR. WOLGEMUTH:

8 Q It's not a matter of liking or not liking. It's a
9 matter of being informed. Pam, say in the past year say since
10 April of 2002 to the present, in the year, last year and a
11 half, have you noticed any change in his activity level?

12 A I think it's gotten worse.

13 Q In what way?

14 A Very very -- well, like when his niece was sick, he
15 would go up and see her in New Bloomfield. Like the last five
16 or six months, he couldn't -- you know, he went but Geri would
17 go with him, but, you know, I have been noticing that he's not
18 like he used to be, you know, like getting around and going in
19 the pizza store, but, you know, he still gets around but I
20 think before he got around a little bit better than I see
21 lately.

22 Q Okay. What was wrong with his niece?

23 A Oh, it was that sad. She had a brain tumor. Oh, it
24 was so sad.

25 Q And he would go to visit the niece and his -- is it

1 his sister?

2 A Yes, yes, it's his sister Mimi, and he would go up to
3 New Bloomfield, but Geri would always go with him, and he would
4 only go if his niece would call him and say I have to see you,
5 she just passed away, and, you know, I have to see you, and he
6 would go up to see her, but Geri or one of the boys would, you
7 know, go up with him.

8 Q How often was he going up there?

9 A I can't say. I don't know for sure.

10 Q She just passed away recently?

11 A Yeah, like two weeks ago.

12 Q In the past --

13 A A week.

14 Q Had she been sick over a year?

15 A Over two years.

16 Q During that two year time period -- well, first of
17 all, how would you know he went up there?

18 A I just know because he doesn't go anyplace except
19 there so when his car was missing, he's either there or he's at
20 the pizza store eating dinner. Yes, I'm a nosy neighbor.

21 Q What time would he go up there to see her?

22 A Different times. You know, a lot times though Geri
23 would come home, and, you know, go with him, but, you know.

24 Q Was it morning or the afternoon?

25 A Sometimes it was like that 3:00ish, you know, when

1 the pizza store wasn't busy when they didn't need Geri. A lot
2 of times it was like that three to five, and, you know, they
3 weren't gone long. You know, when they go, they don't stay
4 long. They would just go, and, you know, give her a hug and
5 support and leave.

6 Q How far is New Bloomfield from Carlisle?

7 A Took me a half an hour.

8 Q You also went up there to visit?

9 A No, well, I went to the viewing and the funeral so
10 that's how I know. I had to time it.

11 Q Does Mr. Mazzamuto drive at all presently?

12 A Yes.

13 Q Have you had any discussions with Mr. Mazzamuto about
14 this case?

15 A No.

16 Q Not at all?

17 A No.

18 Q Did you even know that there was a lawsuit?

19 A Yes, because Geri, they asked me if they could use my
20 name before they used my name.

21 Q In what manner were they using your name?

22 A They said that as a neighbor, you know, and I see
23 him, what he can do and she just asked me if they could, you
24 know, use my name.

25 Q As a witness?

1 A Yes.

2 Q And did you discuss what your or your proposed
3 testimony would be with the Mazzamutos?

4 A No.

5 Q Did you have any conversations with Mr. Angino about
6 what your testimony would be?

7 A No. That's the first time I saw him.

8 Q So prior to you coming today where you obviously had
9 a short conference with Mr. Angino --

10 MR. ANGINO: She didn't even have a short conference.

11 THE WITNESS: I walked right into this room and he
12 came in and we shook hands. That was it.

13 MR. ANGINO: I figured she's not part of the family
14 so I talked to the sons before their depositions but I figured
15 you're a neighbor and you can just tell as it is.

16 THE WITNESS: I'm just telling you what I see and
17 then they will say, boy, is she nosy.

18 MR. ANGINO: Well, we're glad we have people like
19 you. You know, we need witnesses as to what somebody was like
20 before and what they are like now.

21 THE WITNESS: I guess I'm just a friendly sort. Then
22 the boys all grew up across the street so I know them all, you
23 know, and then I have boys also.

24 MR. ANGINO: I was going to say did you have children
25 about the same ages or --

1 THE WITNESS: Well, I have one older 21, well, like
2 he was like in the middle of her boys and then I have one
3 that's 19 and then I have one that's 15 same age as Luigi.

4 MR. ANGINO: You don't seem like you're Italian.

5 THE WITNESS: No, I'm regular.

6 MR. ANGINO: There's regular and there's Italian
7 people, right.

8 THE WITNESS: I go over there sometimes, and all the
9 Italian people are there.

10 MR. ANGINO: And you can't understand what they're
11 saying.

12 THE WITNESS: No, it's what are they saying, what are
13 they saying, and I say one of these days, I'm going to learn
14 that.

15 MR. WOLGEMUTH: This is off the record.

16 (Discussion held off the record.)

17 BY MR. WOLGEMUTH:

18 Q I think just a couple more questions. You haven't
19 had any conversations with Mr. Mazzamuto's treating physicians
20 about his health?

21 A No.

22 Q Have you had any conversations with Mrs. Mazzamuto
23 about his health?

24 A No, not really. She just tells me, you know, like
25 his back hurts or she has to go take him for -- what's that

1 spine thing?

2 MR. ANGINO: Shots.

3 THE WITNESS: Shots.

4 MR. ANGINO: Injections.

5 THE WITNESS: Yeah, injections or she has to take him
6 for doctor's appointment, you know, she has to get up early.
7 What that one test they get. Whatever, it has a name.

8 BY MR. WOLGEMUTH:

9 Q You haven't talked to any of his doctors though?

10 A No, but he does go to the same doctor. I see
11 Dr. Bowers, and one day I did tell him that he started back
12 smoking, and I said --

13 MR. ANGINO: Tattletale.

14 THE WITNESS: Hum-hum. I'm sorry.

15 MR. ANGINO: We're just teasing.

16 THE WITNESS: And I said, well, you tell him to stop
17 smoking and so that's all I said.

18 BY MR. WOLGEMUTH:

19 Q Have you talked to Mrs. Mazzamuto about his smoking?

20 A Yes, and he quit for the longest time. He quit
21 smoking and he started back up when his niece got sick but he
22 quit for the longest time. He didn't smoke. He just quit. I
23 mean, he just went just recently back to it. Like I said, he
24 didn't smoke at all until his niece got sick, and he didn't
25 even smoke at the beginning of his niece getting sick. Oh, oh,

1 did I bring up a sore subject?

2 MR. ANGINO: You are doing wonderful.

3 BY MR. WOLGEMUTH:

4 Q Just a few more questions. You haven't had any type
5 of training to be able to tell whether or not Mr. Mazzamuto is
6 capable of performing any type of specific job duty like
7 vocational training?

8 A No.

9 Q And you're not a doctor?

10 A No.

11 MR. ANGINO: She's not a lawyer either.

12 THE WITNESS: No, I'm regular.

13 MR. WOLGEMUTH: I think that's all the questions I
14 have.

15 MR. ANGINO: And do you think this company should pay
16 the money that they owe him?

17 THE WITNESS: Yes.

18 MR. ANGINO: Why?

19 THE WITNESS: I feel if he could work, he would work.
20 I feel anybody could work -- I mean, he doesn't want to sit
21 like that like how he does. I would think he'd want his health
22 back and be normal, being in his pizza store, greeting people
23 and saying hello, how are you and having a life. He doesn't
24 have a life. His life is completely different than it used to
25 be.

1 BY MR. WOLGEMUTH:

2 Q Do you think the way that you observed him that he'd
3 be able to like place phone orders, call in supplies and things
4 like that?

5 A No.

6 Q Why not?

7 A Because I think he'd be -- I think he'd get tired and
8 I think it would be more stressful and then I think he has a
9 lot of pain in his back. Sometimes when I go over there, he's
10 just like laying like funny sometimes, you know, because of the
11 back and he has a lot of pain like in his back and he's moving
12 like this, like funny like, you know.

13 Q How about like book work like paying bills, things
14 like that, would he be able to do that do you think?

15 A I'm going to say no.

16 Q And why is that?

17 A Well, the stress, number one, number two, like he
18 gets tired real fast, real easily. Like he might be -- I might
19 see him over there walking around doing -- piddling doing
20 something little, and the next minute he has to go and sit down
21 or lay down. I mean, you know, he's not like -- can't be
22 constant doing something.

23 Q Is he unable to sit and pay bills?

24 A Yeah, I don't think -- maybe he could, but what I see
25 I would say no but maybe -- I don't know.

1 Q Do you see him paying, you know, their personal
2 bills?

3 A No. Geri does, no.

4 Q Has it always been that way?

5 A No, he used to pay all the bills. He used to do
6 everything, you know, and I foresee, I feel that if he could be
7 in that restaurant full-time, you know, he loves his family. I
8 mean, he's all family, and he would be in there with his
9 family, with his boys and his wife and see what's going on but
10 he's not. You know, he's at home. He's not -- he's not in
11 there. He's at home most all the time. The only time he ever
12 really went is when his niece got real sick. They used to
13 always come over here. He would never go over to New
14 Bloomfield until the very end when she couldn't come over, and
15 I think it was like February, March was the last time she could
16 come over, but she used to always come over here until she got
17 real sick, until she got sick and then he started going over
18 there.

19 Q Did the fact that his niece got sick and passed away,
20 did that cause him any undue stress?

21 A No, I thought he was -- I thought he did real well
22 with it.

23 MR. WOLGEMUTH: Okay. Okay. That's all the
24 questions I have.

25 MR. ANGINO: You're a wonderful witness.

(Whereupon, the deposition was concluded at 11:45
a.m.)

1 COUNTY OF LANCASTER :
2 COMMONWEALTH OF PENNSYLVANIA : SS

3 I, Lorraine C. Frick, a Notary Public, authorized to
4 administer oaths within and for the Commonwealth of
5 Pennsylvania, do hereby certify that the foregoing is the
6 testimony of PAMELA HAGEURICH.

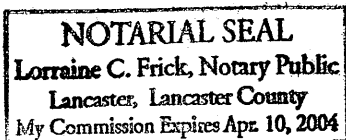
7 I further certify that before the taking of said
8 deposition, the witness was duly sworn; that the questions and
9 answers were taken down stenographically by the said
10 Reporter-Notary Public, and afterwards reduced to typewriting
11 under the direction of the said Reporter.

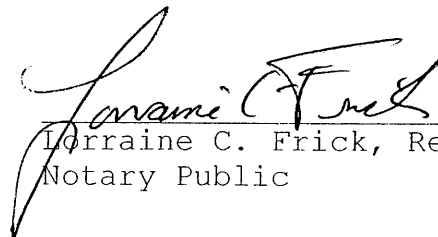
12 I further certify that the said deposition was taken
13 at the time and place specified in the caption sheet hereof.

14 I further certify that I am not a relative or
15 employee or attorney or counsel to any of the parties, or a
16 relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this action.

18 I further certify that the said deposition
19 constitutes a true record of the testimony given by the said
20 witness.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 30th day of June, 2003.




Lorraine C. Frick, Reporter
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENT MAZZAMUTO, :
PLAINTIFF :
V :
: CIVIL ACTION - LAW
UNUM PROVIDENT CORPORATION, : NO. 1:CV-01-1157
PAUL REVERE LIFE INSURANCE :
COMPANY; AND NEW YORK LIFE :
INSURANCE COMPANY, :
DEFENDANTS : JURY TRIAL DEMANDED

DEPOSITION OF: JAMES F. MARSHALL

TAKEN BY: DEFENDANTS

BEFORE: LORRAINE C. FRICK, REPORTER,
NOTARY PUBLIC

DATE: JUNE 19, 2003, 11:55 A.M.

PLACE: ANGINO & ROVNER
4503 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA

APPEARANCES:

ANGINO & ROVNER
BY: RICHARD C. ANGINO, ESQUIRE

FOR - PLAINTIFF

STEVENS & LEE, P.C.
BY: KIRK L. WOLGEMUTH, ESQUIRE

FOR - DEFENDANTS

COPY

WITNESSESNAMEDIRECTCROSS

JAMES F. MARSHALL

BY: MR. WOLGEMUTH

3

--

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification and filing are hereby waived; and that all objections except as to the form of the question are reserved until the time of trial.

JAMES F. MARSHALL called as a witness, being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WOLGEMUTH:

Q Mr. Marshall, my name is Kirk Wolgemuth, and I represent the Defendants in this matter.

MR. ANGINO: That means the insurance company.

BY MR. WOLGEMUTH:

Q The insurance company.

A Yes, I understand.

Q Have you ever been deposed before like we're doing today?

A No, no. I had a little court session one time but that was all.

Q Okay. Let me just tell you briefly what we're going to do, and your deposition will probably be brief also but I'm going to ask you some questions and after I ask you a question I want you to answer the question. Okay. And for the benefit of the court reporter, I want you to answer verbally rather

1 than nodding your head or shaking your head.

2 A Okay, okay.

3 MR. ANGINO: So yes and no is good way to do that.

4 THE WITNESS: Okay.

5 MR. ANGINO: Or okay is fine too.

6 BY MR. WOLGEMUTH:

7 Q And if you don't know the answer to a question, you
8 can say I don't know. That's okay too.

9 A Okay.

10 Q Also, if you don't understand my questions, ask me to
11 repeat it or have the court reporter repeat it.

12 A Okay.

13 Q Do you understand those instructions?

14 A Yes.

15 Q Now, can you tell me what your address is?

16 A 1003 Forge Road, Carlisle.

17 Q And how long have you lived there?

18 A Twenty two years.

19 Q And I take it you know Mr. and Mrs. Mazzamuto?

20 A Yes.

21 Q Tell me how you know them.

22 A Just by working for them back it must have been
23 probably ten years ago or whatever when he remodeled his store,
24 another electrician was doing the work and he asked me if I'd
25 help him out so I went in and helped him out and that's how I

1 became friends with him and learned to know him.

2 Q That was about ten years ago?

3 A I'd say eight or ten years. I'm not exactly sure.

4 I'd have to find out when they did their remodeling at the
5 restaurant. I'm not sure.

6 MR. ANGINO: And may I just suggest that's a good way
7 to answer, eight or ten years, I'm not sure. You know, if you
8 aren't sure, you should tell him you're not sure.

9 THE WITNESS: Yeah, I'm not really sure. I'd have to
10 get and see when they remodeled to be exact, you know.

11 MR. ANGINO: But that wouldn't be important to us.

12 THE WITNESS: Okay.

13 BY MR. WOLGEMUTH:

14 Q What's your age, Mr. Marshall?

15 A My age is 67.

16 Q Are you presently retired?

17 A No, I'm still working.

18 Q What kind of work do you do?

19 A I'm an electrician.

20 Q And you were an electrician eight or ten years ago
21 when you helped out --

22 A Yes, yes.

23 Q -- the Mazzamutos?

24 A Yes.

25 Q Now, the job that you did for them eight or ten years

1 ago, how long did that job last?

2 A It was just a few weeks. I'm not sure, probably I'd
3 say three weeks, four weeks at the most. That was just that
4 particular job, you know.

5 Q Have you done other work for them?

6 A Oh, yeah, I've done other work.

7 Q What other work have you done?

8 A Some maintenance work in some of the other buildings
9 he has and at his house.

10 Q What other buildings does he have?

11 A He has a -- I guess it's called the Pennsylvania
12 Health Center Building and the Wic Building I think it is. I
13 just changed light bulbs and things like that, you know.

14 Q What type of work did you do at his house?

15 A Electrical work.

16 Q When was the last time that you did any type of work
17 for Mr. or Mrs. Mazzamuto?

18 A I don't really know. I'm not sure. I'm usually
19 doing some kind of little things for them like if I go into the
20 restaurant and light bulbs are out, I'll change the light bulbs
21 for them or, you know, things of that matter.

22 Q Have you done any major projects since July of 2000
23 for them?

24 A No, well, now wait. It's not really a major project.
25 I replaced an electrical panel in the health building.

1 Q And when would that have been roughly?

2 A Oh, time goes so fast I can't keep up with it. I'd
3 say probably six months ago.

4 Q Have you done any work on their house since July of
5 2000?

6 A In 2000, this is 2003.

7 MR. ANGINO: Three years ago, anything in the last
8 three years, if you remember.

9 THE WITNESS: Not that I can remember.

10 BY MR. WOLGEMUTH:

11 Q How often would you see Mr. Mazzamuto in the past say
12 five years?

13 A Ask again.

14 Q How often would you see Mr. Mazzamuto in the past
15 five years?

16 A Oh, I'd say every week.

17 Q How would you see him every week?

18 A I do a lot of walking in the evening, and when I
19 would walk, I came by the house and they were present, I'd
20 stop in and say hello.

21 Q I'm assuming that your home is close to where the
22 Mazzamutos live?

23 A Yes. I just live around the corner from them,
24 hum-hum.

25 Q In the past five years, have you done anything

1 socially with the Mazzamutos?

2 A At New Year's, you know, usually they have a little
3 New Year's party or something and I go over there for the
4 party.

5 Q Go out to eat or anything like that?

6 A We don't go out to eat, no.

7 Q How about other type of recreational activities?

8 A Well, I go into their restaurant and eat in there.

9 Q Now, how often do you go into the restaurant to eat?

10 A Every week.

11 Q More than one time a week or --

12 A Sometimes two, three times, yeah.

13 Q Is that for lunch or dinner?

14 A It would be either. Sometimes it's lunch, sometimes
15 it's dinner in the evening.

16 Q Now, I want to direct your attention to the time
17 period prior to July of 2000, that's prior to when
18 Mr. Mazzamuto had his heart attack.

19 A Okay. I don't know.

20 Q You know he had a heart attack.

21 A Yeah, yeah, I knew he had a heart attack.

22 Q I want you to go back to when you saw Mr. Mazzamuto
23 working in the restaurant prior to July of 2000. Can you
24 remember that far back?

25 A I couldn't give, you know, those specifics because,

1 you know, I mean, I don't know. You know, if you asked me a
2 question about 2003, I couldn't say it was 2003 or 2002.

3 MR. ANGINO: I don't think he's that much concerned
4 about that. He wants to know before when he was working and
5 you would see him working at the restaurant.

6 THE WITNESS: Yeah.

7 MR. ANGINO: And then just compare that to after he
8 had his heart attack and he wasn't working. So I think that's
9 all he wants you to do.

10 THE WITNESS: Well, as I remember, about the time he
11 had his heart attack, now, I could be messed up here, but I
12 know that he was always complaining about his back hurting
13 because he usually did all the preparation work in the back of
14 the restaurant, and it was a lot of standing, and when I'd come
15 in, and, I'd say, how are you doing, oh, my back is killing me,
16 so I know that -- I mean, whatever time, whatever year it was,
17 when I would see him, he always seemed to be having pain and
18 he'd sit down and try to cut the tomatoes and then he'd stand
19 up a while, you know, things of that nature.

20 MR. ANGINO: That's what he wants to know, before and
21 after the heart attack, when he's working what you saw.

22 THE WITNESS: Well, I guess it was before and after
23 the heart attack. I'm pretty sure it was.

24 BY MR. WOLGEMUTH:

25 Q Besides like standing or sitting and cutting stuff,

1 what other type of job duties did you observe him performing
2 prior to July of 2000? For example, did you see him greet
3 customers?

4 A Oh, yeah, he would talk to -- he'd talk to some
5 customers if -- like if he come out -- well, like myself, if I
6 went in in the evening, and he happened to know that I was
7 there, he'd try to make it a point to come out and say hello.
8 And I can't remember when he started using a cane, but I know,
9 you know, for some time now he's been using a cane to walk
10 with.

11 Q Did you ever see him using a cane to get around the
12 restaurant?

13 A No, not really, other than just walking. I mean, as
14 far as him working, now, in the last, I don't know, year or so,
15 he hasn't even been in the restaurant to do any work that I've
16 observed anyway.

17 Q Okay. How about did you ever see him cooking at the
18 restaurant prior to the time he had his heart attack?

19 A No, I never seen him cook.

20 Q How about like operating the cash register?

21 A No, never seen him operate the cash register.

22 Q Did you ever see him like seating customers or taking
23 an order?

24 A No, never taking an order, never seen him.

25 Q So it sounds like from your testimony when you saw

1 him he was generally cooking?

2 A No, he was generally preparing like slicing tomatoes
3 or cleaning lettuce to chop up the lettuce or chopping onions
4 or that nature.

5 Q When you observed him doing that, Mr. Marshall, where
6 did you see him doing that, where was he?

7 A In the back of the restaurant.

8 Q So if you go in there, there's like a counter area
9 where the cash register is where people would maybe pay for a
10 take out order or something?

11 A Well, that's in the front. I always go in the back
12 of the building because I'm kind of a privileged character of a
13 customer.

14 Q Okay.

15 A But I'd always go in the back, and he was usually
16 always standing right there at the preparation table.

17 Q Is that close to where the grills are?

18 A It's on the opposite side of where the grills are.

19 Q Okay.

20 A It's in the very back of the building.

21 Q Okay.

22 A But sometimes he'd be sitting, and I'd say how are
23 you doing, back is killing me, and then we'd go on with our
24 other conversation, you know.

25 Q How long of a time period did you observe him making

1 those type of comments about his back? I know it's --

2 A To give you an exact time, I really couldn't tell
3 you. I just --

4 Q Was it a number of years or was it just --

5 A Oh, pretty good while. I'd say a couple of years,
6 yeah.

7 Q Now, since he's had his heart attack, have you seen
8 him at the restaurant at all?

9 MR. ANGINO: Other than eating, did you ever see him
10 working?

11 THE WITNESS: Not to work, no, not to work, uh-huh.
12 I seen him there eating, yes, but not to doing any work. I
13 don't think he could do anything to be honest.

14 BY MR. WOLGEMUTH:

15 Q Do you think he'd be able to place an order for
16 supplies like over the telephone?

17 A Well, he probably could, you know, if it was read off
18 of a piece of paper or something, but as far as him sitting or
19 standing for any duration, that I don't think he can do.

20 Q What does he have to do, does he have to alternate
21 between sitting and standing?

22 A Oh, yeah, because like when I'll stop in at his
23 house, he might be laying on the couch, then he gets up and I
24 says -- I say didn't you sleep last night, no, and so he gets
25 up and he may set there in the chair and start talking to me

1 and kind of doze off to sleep, and then when he gets up though
2 he always has his cane, and I say -- he said a couple of times
3 I think he fell down a time or two, and his wife then usually
4 says that he didn't sleep last night so he comes out here in
5 the living room and lays back in his chair and tries to sleep,
6 and it sounds to me like he don't get a lot of sleep just from
7 the few times I visited, you know, but I'm not there all the
8 time so I don't really know.

9 Q How about stuff like paying bills, do you think he
10 could pay bills, write checks?

11 A This I don't know because I don't know, you know,
12 about his education and things, you know, as far as

13 Q Well, putting his education aside, is there any type
14 of -- you know, is it his back pain, would that affect his
15 ability to pay bills?

16 A Well, I couldn't really say there because, I mean, I
17 mean, he don't constantly just set there and say I'm in pain,
18 I'm in pain, I'm in pain. I mean, I just know that he'll sit
19 there, and if he's sitting, you know, he's usually moving ahead
20 or got his hand behind him or something, you know, but, now,
21 whether like I say, if he could pay bills, I have no idea.

22 Q When you were there at his house, Mr. Marshall, in
23 the past say year, year and a half, two years, did you ever see
24 him like bend down to pick anything up?

25 A I don't know. I never really paid any attention. I

1 can't really say that I did. Most of the time when I visit
2 him, he's usually in the house. Now, like if I ring the door
3 bell, sometimes he'll come to the door or most of the times the
4 kids come to the door, but usually when I visit him he's
5 usually laying on the couch or sitting in a chair or sitting at
6 the table, and we just set down and start shooting the bull,
7 you know, about the day, and I know one thing, he takes a lot
8 of pills.

9 Q Did you ever see him engaged in any household chores
10 the times you visited?

11 A No, because like I say, usually when I'm there it's
12 in the evenings, and whatever they had to do is, you know,
13 probably done during the day. I don't know.

14 Q Is Mrs. Mazzamuto generally there when you come to
15 visit?

16 A Not always but sometimes she's there. In fact, most
17 of the time she's there.

18 Q Is Mr. Mazzamuto able to drive a vehicle by himself?

19 A Oh, yeah, I'm sure he can drive.

20 Q Have you seen him drive?

21 A Well, yeah, yeah, I've seen him drive.

22 Q Did you ever accompany him to New Bloomfield in the
23 past year or so?

24 A No, no never.

25 Q Are you still working full-time?

1 A Oh, yeah.

2 Q Full-time is eight to five?

3 A Whatever.

4 MR. ANGINO: Whenever you need an electrician.

5 THE WITNESS: I told my wife I said I'm going to slow
6 down a little, I'm going to start working half days, she said,
7 oh, great, great, I said, yeah, 12 hour days. She didn't like
8 that too good.

9 BY MR. WOLGEMUTH:

10 Q Did you ever take Mr. Mazzamuto to any type of
11 recreational activity that you like to do?

12 A No, no, I've never had him

13 Q Has he been in your house recently?

14 A No.

15 MR. ANGINO: You say you take walks. Did you ever
16 take walks with him?

17 THE WITNESS: No, no, I never walked with him.

18 BY MR. WOLGEMUTH:

19 Q Have you seen any change in his condition in the past
20 year?

21 A Well, seems to me like he's worse.

22 Q In what way?

23 A Just don't seem like he can walk right.

24 Q How?

25 A Is what I notice.

1 Q And tell me specifically what you observed.

2 A Well, I'm not really observant when it comes to this
3 kind of thing. You know, back years ago, he used to be he was,
4 you know, you know, really full of himself, always doing
5 things, but I guess since -- really since he remodeled his
6 house, I haven't really seen him doing anything to amount to
7 anything. And then I'd say the last year or two years really,
8 I haven't observed him really doing any kind of anything as far
9 as work is concerned because he's always complaining about his
10 back hurting, back and legs. His legs are numb and his back
11 hurts.

12 Q Now, you said that you haven't observed him doing too
13 much since he remodeled his house. Is that when you were
14 working at his house?

15 A I put a new service in his house at the time they
16 remodeled. I didn't do anything other than just the new
17 service which was only a two day

18 MR. ANGINO: Was that that five years ago when you
19 said you were --

20 THE WITNESS: No, that part, that was the restaurant.
21 This is at the house. They remodeled his house.

22 BY MR. WOLGEMUTH:

23 Q How long ago did they remodel his house?

24 A Oh, Lord, I couldn't tell you.

25 Q More than five years ago?

1 A It could be. I'm not sure.

2 Q Do you think it's less than five years or do you
3 think it's more than five years?

4 A I'd say it's probably more than five years. I know
5 you don't like guessing answers but

6 Q Sometimes an estimate is okay.

7 MR. ANGINO: As long as you say that kind of thing.

8 THE WITNESS: You know, I can't really.

9 MR. ANGINO: We're not here to find out the date that
10 he remodeled.

11 THE WITNESS: Right, right, I understand.

12 BY MR. WOLGEMUTH:

13 Q Do you know who is assuming the job duties that he
14 was performing at the restaurant since July of 2000?

15 A It seems to me like all of them. I know sometimes
16 his wife, she's doing tomatoes and lettuce, and the boys,
17 they're all -- you know, they all do all kinds of jobs in there
18 and because I'm always kidding with him when I go in, I say,
19 oh, you're the tomato man tonight or you're the lettuce man
20 today or you're the dough boy today, and it seems like that the
21 whole group has -- you know, they do their part.

22 Q Have you talked to Mr. Mazzamuto about today about
23 what we were going to do today?

24 A No.

25 Q Have you talked to Mr. Mazzamuto about what testimony

1 you may give at the trial at some point?

2 A No.

3 Q Did you know --

4 A The only thing that I ever talked to him about on
5 this deal was what, a year or two years ago or something they
6 asked me if I would be a reference or something if I was
7 called, and I said, yes, you can count on me and I've never
8 talked about it since.

9 Q Have you had any conversations with Mr. Angino about
10 the trial that's coming up?

11 A No.

12 MR. ANGINO: Never saw me before, did you?

13 THE WITNESS: No, this is the first I ever saw you.

14 MR. ANGINO: And we didn't talk at all except to
15 shake hands, right?

16 THE WITNESS: Right, that's all.

17 MR. ANGINO: He wants to know if you had any training
18 as a doctor or a lawyer as some kind of vocational expert. Did
19 you have any training in any of those areas?

20 THE WITNESS: No.

21 MR. WOLGEMUTH: I wasn't even going to ask him that.

22 MR. ANGINO: Okay.

23 MR. WOLGEMUTH: He was an electrician probably his
24 whole life. All right. That's all the questions I have.

25 THE WITNESS: It's like I told them when they asked

1 me, I said, well, the only thing I can tell you is what I know
2 about you.

3 MR. ANGINO: And that's what all of us want to know.

4 THE WITNESS: I said I can't tell them anything other
5 than what I know.

6 MR. ANGINO: Thank you.

7 (Whereupon, the deposition was concluded at 12:15
8 p.m.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 COUNTY OF LANCASTER :
2 COMMONWEALTH OF PENNSYLVANIA : SS

3 I, Lorraine C. Frick, a Notary Public, authorized to
4 administer oaths within and for the Commonwealth of
5 Pennsylvania, do hereby certify that the foregoing is the
6 testimony of JAMES F. MARSHALL.

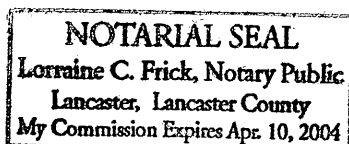
7 I further certify that before the taking of said
8 deposition, the witness was duly sworn; that the questions and
9 answers were taken down stenographically by the said
10 Reporter-Notary Public, and afterwards reduced to typewriting
11 under the direction of the said Reporter.

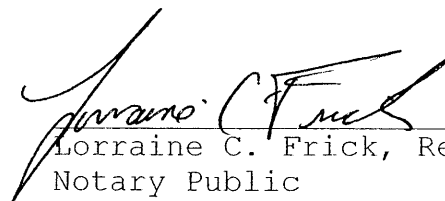
12 I further certify that the said deposition was taken
13 at the time and place specified in the caption sheet hereof.

14 I further certify that I am not a relative or
15 employee or attorney or counsel to any of the parties, or a
16 relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this action.

18 I further certify that the said deposition
19 constitutes a true record of the testimony given by the said
20 witness.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 1st day of July, 2003.




Lorraine C. Frick, Reporter
Notary Public